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RAJYA SABHA

The following report of the Select Committee on the Bill to amend and codify the law relating to adoptions and maintenance among Hindus was presented to the Rajya Sabha on the 19th November, 1956:—

COMPOSITION OF THE SELECT COMMITTEE

Shri P. N. Saprú—*Chairman.*

Members

1. Shri B. M. Gupte
2. Shri T. D. Pustake
3. Dr. Shrimati Seeta Parmanand
4. Shrimati Savitry Devi Nigam
5. Shri Mahesh Saran
6. Shri Purna Chandra Sharma
7. Shri Indra Vidyavachaspati
8. Shri C. L. Varma
9. Shri S. Channa Reddy
10. Shrimati T. Nallamuthu Ramamurthy
11. Shri H. C. Dasappa
12. Shri Makkineni Basavapunnaiiah
13. Shri Satyapriya Banerjee
14. Shri Pydah Venkata Narayana
15. Shri Jaswant Singh
16. Shri Surendra Mahanty
17. Dr. P. V. Kane
18. Shri Kailash Bihari Lall
19. Shri Bheron Prasad
20. Shri Vijay Singh

21. Shri Amolakh Chand
22. Shri Jagan Nath Kaushal
23. Shri C. C. Biswas
24. Shri H. V. Pataskar.

REPORT OF THE SELECT COMMITTEE

I, the Chairman of the Select Committee to which the Bill* to amend and codify the law relating to adoptions and maintenance among Hindus was referred, having been authorised to submit the Report on their behalf, present this their Report, with the Bill as amended by the Committee annexed thereto.

2. The Bill was introduced in the Rajya Sabha on the 23rd August, 1956. The motion for reference of the Bill to a Select Committee of the House (Vide Appendix I) was moved by Shri H. V. Pataskar, Minister for Legal Affairs, on the 28th August, 1956, and was adopted by the House on the same day.

3. The Committee held eight sittings in all,

4. The first meeting was held on the 13th September, 1956 to draw up the programme of work.

5. The Committee took up clause by clause consideration of the Bill on the 24th October, 1956, and concluded it on the 15th November, 1956.

6. The Committee considered and adopted the Report on the 16th November, 1956.

7. Upon the principal changes proposed in the Bill, the Select Committee observe as follows:—

Clause 7.—The disabilities mentioned in clause 9(3) of the Bill should be of general application in all cases and this clause has been modified so that the consent of the wife is rendered unnecessary where she is subject to any of those disabilities.

Clause 8.—The clause has been amended so as to make it clear that the expression unmarried female also includes a female whose marriage has been dissolved or whose husband is dead or has renounced the world or has ceased to be a Hindu or is of unsound mind.

Clause 9.—Sub-clause (4) has been redrafted so that the circumstances in which a guardian can give a child in adoption are expressly laid down. It has also been pro-

*Published in the *Gazette of India Extraordinary*, Part II, Section 2, dated the 23rd August 1956.

vided that the guardian of a child may give in adoption only with the previous permission of the court. A new sub-clause [sub-clause (5)] has been added for the guidance of courts in granting permission to a guardian to give a child in adoption.

Clause 11.—As the Bill provides for the adoption of both male and female children who may in certain circumstances be of any age, it is necessary to provide for a statutory disparity in age between the person adopting and the person adopted in cases where the adoption is by a male of a female or by a female of a male.

Clause 16.—In conformity with the definition of “shall presume” in the Indian Evidence Act, 1872, the words “unless and until it is disproved” have been inserted at the end.

Clause 17.—In the opinion of the Committee no prosecution under this provision should be undertaken without the previous sanction of the Government or of an authorised person.

Clause 18.—The words “may claim maintenance from her husband only if and while she lives with him.” have been omitted as unnecessary. Sub-clause 2(d) has also been omitted as unnecessary. Moreover, the omnibus provision in sub-clause 2(g) should be sufficient for that purpose. In place of sub-clause 2(d) a new sub-clause has been inserted justifying the wife living separately without forfeiting her claim to maintenance if the husband has any other wife living.

Clause 19.—This clause has been redrafted so as to make it clear that the widowed daughter-in-law can claim maintenance from her father-in-law only where she is unable to maintain herself out of her own property or from the estate of her husband, father, mother, son or daughter. It is also provided that the father-in-law shall be under no obligation to maintain his daughter-in-law except in cases where there is some ancestral property in his possession from which the daughter-in-law has not obtained any share.

Clause 20.—The clause has been amended to include infirm parents also in the category of persons to be maintained, and “parent” is defined to include a childless step-mother. It is also made clear that the obligation to maintain parents and children arises only in cases where the person to be maintained has no property of his own.

Clause 21.—The Select Committee have added to the list of dependents the son's daughter and the son's son's daughter, but, as in other cases, maintenance will be payable only during the period the claimant remains unmarried and is otherwise unable to maintain herself.

Clause 23.—Sub-clause 3(h) has been omitted as an unnecessary enumeration. It could be left to the court to take into account all the surrounding circumstances.

Clause 24.—Instead of repeating in various places that the person claiming maintenance should be a Hindu at the time the claim is made, the Committee have thought fit to insert a general provision to this effect in this clause.

8. The Select Committee recommend that the Bill as now amended be passed.

P. N. SAPRU,

Chairman of the Select Committee.

NEW DELHI;

The 16th November 1956.

MINUTE OF DISSENT

At the very outset I want to make it clear that although I hold a bit different opinion about certain principles of law regarding adoption and maintenance, I am not particular to express my difference of opinion on them and I have agreed on them. But I cannot help expressing my opinion so far as the proposed piece of legislation is anti-national and communal in its outlook.

2. The principles of Hindu Law, which have been tested on the touch stone of universal morality and applicability and have been found to be sound and if they are progressive and helpful to the cause of advancement of culture and civilization, I see no reason why they should not be incorporated and enacted into a Code of Law intended for the whole of the nation.

3. It is said that we are legislating for the Hindus and Hindus alone and we cannot change the connotation of the word 'Hindu' in a secular sense to mean the nationals of 'Hind', that is India. This confusion of the definition of 'Hindu' has led the framers of the Bill to resort to a long clarification of the term ending by a suggestion that even a Hindu who is not a Hindu by religion is so by virtue of the clarification contained in Clause 2. Is it not confusion worse confounded?

4. To remedy the confusion due to the definition of 'Hindu' as contained in Clause 2, I suggest the substitution of the whole clause 2 by a simple definition of the term 'Hindu' thus:

"2(1) This Act applies to any person who is a Hindu by nationality irrespective of any religion that he or she may be observing.

(2) The expression 'Hindu' in any portion of this Act shall be construed as secular and geographical term meaning the resident of India (or Hind) and not the follower of any particular religion."

5. So far any reference to the religion of the so-called Hindus was concerned it may be easily solved by referring them as "Sanatnis". If any change of religion was to be expressed it could be said as "he ceased to be a 'sanatni'" instead of saying "he ceased to be a Hindu".

6. It has been urged that the insurmountable difficulty in accepting the above suggested secular definition of 'Hindu' is that already 3 parts of the Hindu Code have been passed with the definition as already adopted in the Bill and it is not possible to change the definition at this stage. It seems to be a lame excuse and worst of weakness to suffer a mistake at the cost of the nation and not to think of remedying the evil by an amending Bill, especially when, today or tomorrow, all the four parts of the Hindu Code are to be consolidated together.

7. The fusion of different religious communities into one nation is the supreme need of the hour. In the light of this view enactment of such legislation that may further lead to estrangement of different communities is a strange phenomenon. I do not mean to suggest that the Hindu Law of Adoption or, as a matter of fact, any principle of Hindu Law, be imposed upon any community. But the door should not be banged against the national fusion by unnecessarily introducing such provision as may isolate the so-called Hindus from the people of other communities.

8. For instance, is it not an unnecessary ban on Hindus to adopt only a Hindu boy? Suppose a childless Hindu has a bosom friend, who happens to be a Muslim or a Christian, and if he adopts a child of his Muslim or Christian friend, who is prepared to give his child for adoption, I see no reason why a ban in law should be put, in the name of so-called Hinduism, which has been flouted in other respects. Similarly, I know of some cases of childless Muslims and Christians, who adopted a child to satisfy their urge for a child. After all, what is the harm if a permissive law is enacted for the whole nation so that a time may come when even the recalcitrants may feel the necessity of such law and may veer round in course of time? It is neither imposing a law on an unwilling person nor banging the door against a willing person.

9. It is essential to provide common bonds of unity such as common name of the nation, common laws, common language, common history and traditions and so on but instead the proposed Bill is setting a suicidal example of dividing the nation by legislation. It is regrettable that where the interest of national fusion required relaxation of the so-called principles of Hindu laws the name of Hinduism has been invoked and the so-called Hindu laws have been utilized for making the Hindus only cabined, cribbed and confined into an isolated community.

NEW DELHI;

KAILASH BIHARI LALL.

The 17th November, 1956.

Bill No. XVIII of 1956**THE HINDU ADOPTIONS AND MAINTENANCE
BILL, 1956**

(AS AMENDED BY THE SELECT COMMITTEE)

(Words side-lined or underlined indicate the amendments suggested
by the Committee; asterisks indicate omissions.)

A

BILL

*to amend and codify the law relating to adoptions and
maintenance among Hindus.*

Be it enacted by Parliament in the Seventh Year of the Republic
of India as follows:—

CHAPTER I**PRELIMINARY**

5 1. (1) This Act may be called the Hindu Adoptions and Short title
Maintenance Act, 1956. and extent.

(2) It extends to the whole of India except the State of Jammu
and Kashmir.

2. (1) This Act applies—

10 (a) to any person, who is a Hindu by religion in any of its
forms or developments, including a Virashaiva, a Lingayat or a
follower of the Brahmo, Prarthana or Arya Samaj, Application
of Act.

(b) to any person who is a Buddhist, Jaina or Sikh by
religion, and

15 (c) to any other person who is not a Muslim, Christian,
Parsi or Jew by religion, unless it is proved that any such person
would not have been governed by the Hindu law or by any
custom or usage as part of that law in respect of any of the
matters dealt with herein if this Act had not been passed.

Explanation.—The following persons are Hindus, Buddhists, Jainas or Sikhs by religion, as the case may be:—

(a) any child, legitimate or illegitimate, both of whose parents are Hindus, Buddhists, Jainas or Sikhs by religion;

(b) any child, legitimate or illegitimate, one of whose parents is a Hindu, Buddhist, Jaina or Sikh by religion and who is brought up as a member of the tribe, community, group or family to which such parent belongs or belonged; and

(c) any person who is a convert or re-convert to the Hindu, Buddhist, Jaina or Sikh religion.

(2) Notwithstanding anything contained in sub-section (1), nothing contained in this Act shall apply to the members of any Scheduled Tribe within the meaning of clause (25) of article 366 of the Constitution unless the Central Government, by notification in the Official Gazette, otherwise directs.

(3) The expression "Hindu" in any portion of this Act shall be construed as if it included a person who, though not a Hindu by religion, is, nevertheless, a person to whom this Act applies by virtue of the provisions contained in this section.

Definitions.

3. In this Act, unless the context otherwise requires,—

(a) the expressions "custom" and "usage" signify any rule which, having been continuously and uniformly observed for a long time, has obtained the force of law among Hindus in any local area, tribe, community, group or family:

Provided that the rule is certain and not unreasonable or opposed to public policy: and

Provided further that, in the case of a rule applicable only to a family, it has not been discontinued by the family;

(b) "maintenance" includes—

(i) in all cases, provision for food, clothing, residence, education and medical attendance and treatment;

(ii) in the case of an unmarried daughter, also the reasonable expenses of and incident to her marriage;

(c) "minor" means a person who has not completed his or her age of eighteen years.

4. Save as otherwise expressly provided in this Act,—

Overriding
effect of
Act.

(a) any text, rule or interpretation of Hindu law or any custom or usage as part of that law in force immediately before the commencement of this Act shall cease to have effect with respect to any matter for which provision is made in this Act;

(b) any other law in force immediately before the commencement of this Act shall cease to apply to Hindus in so far as it is inconsistent with any of the provisions contained in this Act.

CHAPTER II

10

ADOPTION

5. (1) No adoption shall be made after the commencement of this Act by or to a Hindu except in accordance with the provisions contained in this Chapter, and any adoption made in contravention of the said provisions shall be void.

Adoptions
to be
regulated
by this
Chapter.

(2) An adoption which is void shall neither create any rights in the adoptive family in favour of any person which he or she could not have acquired except by reason of the adoption, nor destroy the rights of any person in the family of his or her birth.

6. No adoption shall be valid unless—

Requisites
of a valid
adoption.

(i) the person adopting has the capacity, and also the right, to take in adoption;

(ii) the person giving in adoption has the capacity to do so;

(iii) the person adopted is capable of being taken in adoption; and

(iv) the adoption is made in compliance with the other conditions mentioned in this Chapter.

7. Any male Hindu who is of sound mind and is not a minor has the capacity to take a son or a daughter in adoption:

Capacity
of a male
Hindu to
take in
adoption.

Provided that if he has a wife living he shall not adopt except with the consent of his wife unless the wife has completely and finally renounced the world or has ceased to be a Hindu or has been declared by a court of competent jurisdiction to be of unsound mind or is a minor.

Explanation.—If a person has more than one wife living at the time of adoption the consent of all the wives is necessary unless the consent of any one of them is unnecessary for any of the reasons specified in the preceding proviso.

Capacity
of a female
Hindu
to take in
adoption.

8. Any female Hindu who—

(a) is of sound mind,

(b) is not a minor, and

(c) is not married, or if married, the marriage has been dissolved or the husband is dead or has completely and finally renounced the world or has ceased to be a Hindu or has been declared by a court of competent jurisdiction to be of unsound mind, has the capacity to take a son or daughter in adoption.

Persons
capable of
giving in
adoption.

9. (1) No person except the father or mother or the guardian of a child * * * shall have the capacity to give the child in adoption.

(2) Subject to the provisions of sub-section (3), the father, if alive, shall alone have the right to give in adoption, but such right shall not be exercised save with the consent of the mother unless the mother is a minor or has completely and finally renounced the world or has ceased to be a Hindu or has been declared by a court of competent jurisdiction to be of unsound mind.

(3) The mother may give the child in adoption if the father is dead or has completely and finally renounced the world or has ceased to be a Hindu or has been declared by a court of competent jurisdiction to be of unsound mind.

(4) Where both the father and mother are dead or have completely and finally renounced the world or have been declared by a court of competent jurisdiction to be of unsound mind, the guardian of a child (whether a testamentary guardian or a guardian appointed or declared by a court) may give the child in adoption with the previous permission of the court.

(5) Before granting permission to a guardian under sub-section (4) the court shall be satisfied that the adoption will be for the welfare of the child, due consideration being for this purpose given to the wishes of the child having regard to the age and understanding of the child and that the applicant for permission has not received or agreed to receive and that no person has made or given or agreed to make or give to the applicant any payment or reward in consideration of the adoption except such as the court may sanction.

Explanation.—For the purposes of this section—

(i) the expressions “father” and “mother” do not include an adoptive father and an adoptive mother; and

(ii) “court” means the city civil court or a district court within the local limits of whose jurisdiction the child to be adopted ordinarily resides.

10. No person shall be capable of being taken in adoption unless the following conditions are fulfilled, namely:—

Persons who may be adopted.

(i) he or she is a Hindu;

(ii) he or she has not already been adopted;

5 (iii) he or she has not been married, unless there is a custom or usage applicable to the parties which permits persons who are married being taken in adoption;

10 (iv) he or she has not completed the age of fifteen years, unless there is a custom or usage applicable to the parties which permits persons who have completed the age of fifteen years being taken in adoption.

11. In every adoption, the following conditions must be complied with:—

Other conditions for a valid adoption.

15 (i) if the adoption is of a son, the adoptive father or mother by whom the adoption is made must not have a Hindu son (whether by legitimate blood relationship or by adoption) living at the time of adoption.

20 (ii) if the adoption is of a daughter, the adoptive father or mother by whom the adoption is made must not have any Hindu daughter (whether by legitimate blood relationship or by adoption) living at the time of adoption.

(iii) If the adoption is by a male and the person to be adopted is a female, the adoptive father is at least twenty-one years older than the person to be adopted.

25 (iv) if the adoption is by a female and the person to be adopted is a male, the adoptive mother is at least twenty-one years older than the person to be adopted.

(v) the same child may not be adopted simultaneously by two or more persons.

30 (vi) the child to be adopted must be actually given and taken in adoption by the parents or guardian concerned or under their authority with intent to transfer the child from the family of its birth to the family of its adoption:

35 Provided that the performance of *datta homam* shall not be essential to the validity of an adoption.

12. An adopted child shall be deemed to be the child of his or her adoptive father or mother for all purposes with effect from the date of the adoption and from such date all the ties of the child

Effects of adoption.

in the family of his or her birth shall be deemed to be severed and replaced by those created by the adoption in the adoptive family:

Provided that—

(a) the child cannot marry any person whom he or she could not have married if he or she had continued in the family of his or her birth; 5

(b) any property which vested in the adopted child before the adoption shall continue to vest in such person subject to the obligations, if any, attaching to the ownership of such property, including the obligation to maintain relatives in the family of his or her birth; 10

(c) the adopted child shall not divest any person of any estate which vested in him or her before the adoption.

Right of
adoptive
parents to
dispose of
their
properties.
Determi-
nation of
adoptive
mother in
certain
cases.

13. Subject to any agreement to the contrary, an adoption does not deprive the adoptive father or mother of the power to dispose of his or her property by transfer *inter vivos* or by will. 15

14. (1) Where a Hindu who has a wife living adopts a child, she shall be deemed to be the adoptive mother.

(2) Where an adoption has been made with the consent of more than one wife, the seniormost in marriage among them shall be deemed to be the adoptive mother and the others to be step-mothers. 20

(3) Where a widower or a bachelor adopts a child, any wife whom he subsequently marries shall be deemed to be the step-mother of the adopted child.

(4) Where a widow or an unmarried woman adopts a child, any husband whom she marries subsequently shall be deemed to be the step-father of the adopted child. 25

Valid
adoption
not to be
cancelled.

15. No adoption which has been validly made can be cancelled by the adoptive father or mother or any other person, nor can the adopted child renounce his or her status as such and return to the family of his or her birth. 30

Presumption
as to regis-
tered docu-
ments
relating to
adoptions.

16. Whenever any document registered under any law for the time being in force is produced before any court purporting to record an adoption made and is signed by the person giving and the person taking the child in adoption, the court shall presume that the adoption has been made in compliance with the provisions of this Act unless and until it is disproved. 35

Prohibition
of certain
payments.

17. (1) No person shall receive or agree to receive any payment or other reward in consideration of the adoption of any person, and no person shall make or give or agree to make or give to any 40

other person any payment or reward the receipt of which is prohibited by this section.

(2) If any person contravenes the provisions of sub-section (1), he shall be punishable with imprisonment which may extend to six months, or with fine, or with both.

(3) No prosecution under this section shall be instituted without the previous sanction of the State Government or an officer authorised by the State Government in this behalf.

CHAPTER III

10

MAINTENANCE

18. (1) Subject to the provisions of this section, a Hindu wife, whether married before or after the commencement of this Act, shall be entitled to be maintained by her husband during her life time. Maintenance of wife.

(2) A Hindu wife * * * * * shall be entitled to live separately from her husband without forfeiting her claim to maintenance,—

(a) if he is guilty of desertion, that is to say, of abandoning her without reasonable cause and without her consent or against her wish, or of wilfully neglecting her;

(b) if he has treated her with such cruelty as to cause a reasonable apprehension in her mind that it will be harmful or injurious to live with her husband;

(c) if he is suffering from a virulent form of leprosy;

(d) if he has any other wife living;

(e) if he keeps a concubine in the same house in which his wife is living or habitually resides with a concubine elsewhere;

(f) if he has ceased to be a Hindu by conversion to another religion;

(g) if there is any other cause justifying her living separately.

(3) A Hindu wife shall not be entitled to separate residence and maintenance from her husband if she is unchaste or ceases to be a Hindu by conversion to another religion.

19. (1) * * * * * A Hindu wife, whether married before or after the commencement of this Act, shall be entitled to be maintained after the death of her husband by her father-in-law: Maintenance of widowed daughter-in-law.

Provided and to the extent that she is unable to maintain herself out of her own earnings or other property or, where she has no property of her own, is unable to obtain maintenance —

(a) from the estate of her husband or her father or mother,

or

(b) from her son or daughter, if any, or his or her estate;

5

(2) Any obligation under sub-section (1) shall not be enforceable if the father-in-law has not the means to do so from any coparcenary property in his possession out of which the daughter-in-law has not obtained any share, and any such obligation shall cease on the re- 10 marriage of the daughter-in-law.

Maintenance
of children
and aged
parents.

20. (1) Subject to the provisions of this section a Hindu is bound, during his or her life-time, to maintain his or her legitimate or illegitimate children and his or her aged or infirm parents.

(2) A legitimate or illegitimate child may claim maintenance 15 from his or her father or mother so long as the child is a minor.

* * * * *

(3) The obligation of a person to maintain his or her aged or infirm parent or a daughter who is unmarried extends in so far as the parent or the unmarried daughter, as the case may be, is unable to 20 maintain himself or herself out of his or her own earnings or other property.

Explanation.—In this section “parent” includes a childless step-mother.

Dependants
defined.

21. For the purposes of this Chapter “dependants” mean the fol- 25 lowing relatives of the deceased:—

(i) his or her father;

(ii) his or her mother;

(iii) his widow, so long as she does not re-marry;

(iv) his or her son or the son of his predeceased son or the 30 son of a predeceased son of his predeceased son, so long as he is a minor: provided and to the extent that he is unable to obtain maintenance, in the case of a grandson from his father's or mother's estate, and in the case of a great-grandson, from the estate of his father or mother or father's father or father's 35 mother;

(v) his or her unmarried daughter, or the unmarried daughter of his pre-deceased son or the unmarried daughter of

a pre-deceased son of his pre-deceased son, so long as she remains unmarried: provided and to the extent that she is unable to obtain maintenance, in the case of a grand-daughter from her father's or mother's estate and in the case of a great-grand-daughter from the estate of her father or mother or father's father or father's mother;

(vi) his widowed daughter: provided and to the extent that she is unable to obtain maintenance—

(a) from the estate of her husband; or

(b) from her son or daughter if any, or his or her estate; or

(c) from her father-in-law or his father or the estate of either of them;

(vii) any widow of his son or of a son of his predeceased son, so long as she does not re-marry: provided and to the extent that she is unable to obtain maintenance from her husband's estate, or from her son or daughter, if any, or his or her estate; or in the case of a grandson's widow, also from her father-in-law's estate;

(viii) his or her minor illegitimate son, so long as he remains a minor;

(ix) his or her illegitimate daughter, so long as she remains unmarried.

22. (1) Subject to the provisions of sub-section (2), the heirs of a deceased Hindu are bound to maintain the dependants of the deceased out of the estate inherited by them from the deceased.

Maintenance
of dependants.

(2) Where a dependant has not obtained, by testamentary or intestate succession, any share in the estate of a Hindu dying after the commencement of this Act, the dependant shall be entitled, subject to the provisions of this Act, to maintenance from those who take the estate.

(3) The liability of each of the persons who takes the estate shall be in proportion to the value of the share or part of the estate taken by him or her.

(4) Notwithstanding anything contained in sub-section (2) or sub-section (3), no person who is himself or herself a dependant shall be liable to contribute to the maintenance of others, if he or she has obtained a share or part the value of which is, or would, if the liability to contribute were enforced, become less than what

would be awarded to him or her by way of maintenance under this Act.

Amount of
maintenance.

23. (1) It shall be in the discretion of the court to determine whether any, and if so what, maintenance shall be awarded under the provisions of this Act, and in doing so the court shall have due regard to the considerations set out in sub-section (2) or sub-section (3), as the case may be, so far as they are applicable. 5

(2) In determining the amount of maintenance, if any, to be awarded to a wife, children or aged or infirm parents under this Act, regard shall be had to— 10

- (a) the position and status of the parties;
- (b) the reasonable wants of the claimant;
- (c) if the claimant is living separately, whether the claimant is justified in doing so;
- (d) the value of the claimant's property and any income 15 derived from such property, or from the claimant's own earnings or from any other source;
- (e) the number of persons entitled to maintenance under this Act.

(3) In determining the amount of maintenance, if any, to be awarded to a dependant under this Act, regard shall be had to— 20

- (a) the net value of the estate of the deceased after providing for the payment of his debts;
- (b) the provision, if any, made under a will of the deceased in respect of the dependant; 25
- (c) the degree of relationship between the two;
- (d) the reasonable wants of the dependant;
- (e) the past relations between the dependant and the deceased;
- (f) the value of the property of the dependant and any 30 income derived from such property; or from his or her earnings or from any other source;
- (g) the number of dependants entitled to maintenance under this Act.

* * * * *

35

Claimant to
maintenance
should be a
Hindu.

24. No person shall be entitled to claim maintenance under this Chapter if he or she has ceased to be a Hindu by conversion to another religion.

25. The amount of maintenance, whether fixed by a decree of court or by agreement, either before or after the commencement of this Act, may be altered subsequently if there is a material change in the circumstances justifying such alteration. Amount of maintenance may be altered on change of circumstances.

5 26. Subject to the provisions contained in section 27 debts of every description contracted or payable by the deceased shall have priority over the claims of his dependants for maintenance under this Act. Debts to have priority.

27. A dependant's claim for maintenance under this Act shall not be a charge on the estate of the deceased or any portion thereof, unless one has been created by the will of the deceased, by a decree of court, by agreement between the dependant and the owner of the estate or portion, or otherwise. Maintenance when to be a charge

28. Where a dependant has a right to receive maintenance out of an estate and such estate or any part thereof is transferred, the right to receive maintenance may be enforced against the transferee if the transferee has notice of the right; or if the transfer is gratuitous; but not against the transferee for consideration and without notice of the right. Effect transfer of property on right to maintenance.

20

CHAPTER IV

REPEALS AND SAVINGS

19 of 1946. 29. The Hindu Married Women's Right to Separate Residence and Maintenance Act, 1946, and sub-section (2) of section 30 of the Hindu Succession Act, 1956, are hereby repealed. Repeals.

30 of 1956.

25 30. Nothing contained in this Act shall affect any adoption made before the commencement of this Act, and the validity and effect of any such adoption shall be determined as if this Act had not been passed. Savings.

APPENDIX I

(Vide para. 2 of the Report)

Motion in the Rajya Sabha for reference of the Bill to a Select Committee.

"That the Bill to amend and codify the law relating to adoptions and maintenance among Hindus be referred to a Select Committee consisting of—

1. Shri B. M. Gupte,
2. Shri T. D. Pustake,
3. Shri P. N. Sapro,
4. Dr. Shrimati Seeta Parmanand,
5. Shrimati Savitry Devi Nigam,
6. Shri Mahesh Saran,
7. Shri Purna Chandra Sharma,
8. Prof. Indra Vidyavachaspati,
9. Shri C. L. Varma,
10. Shri S. Channa Reddy,
11. Shrimati T. Nallamuthu Ramamurthy,
12. Shri H. C. Dasappa,
13. Shri Makkineni Basavapunnaiiah,
14. Shri Satyapriya Banerjee,
15. Shri Pydah Venkata Narayana,
16. Shri Jaswant Singh,
17. Shri Surendra Mahanty,
18. Dr. P. V. Kane,
19. Shri Kailash Bihari Lall,
20. Shri Bheron Prasad,
21. Shri Vijay Singh,
22. Shri Amolakh Chand,
23. Shri Jagan Nath Kaushal,
24. Shri C. C. Biswas, and
25. Shri H. V. Pataskar (the mover)

with instructions to report by the last day of the first week of the next session."

The following report of the Joint Committee of the Houses on the Bill to amend and consolidate the law relating to copyright was presented to the Rajya Sabha on the 19th November, 1956:—

COMPOSITION OF THE JOINT COMMITTEE

Members

RAJYA SABHA

1. Dr. K. L. Shrimali—*Chairman*.
2. Shri Mohamed Valiulla
3. Prof. R. D. Sinha Dinkar
4. Shri Nawab Singh Chauhan
5. Prof. G. Ranga
6. Shri Benarsi Das Chaturvedi
7. Shrimati Lilavati Munshi
8. Shri Raghavendrarao
9. Dr. Raghubir Singh
10. Shri Shyam Dhar Misra
11. Kakasaheb Kalelkar
12. Shri Abdur Rezzak Khan
13. Shri N. B. Deshmukh
14. Shri Rajendra Pratap Sinha
15. Prof. Dr. Raghu Vira

LOK SABHA

16. Shri B. S. Murthy
17. Shri N. C. Laskar
18. Shri Nageshwar Prasad Sinha
19. Shri Fulsinhji B. Dabhi
20. Shri Joachim Alva
21. Shri T. S. Avinashilingam Chettiar
22. Shri S. V. Ramaswamy
23. Shri Birakisor Ray
24. Shri D. C. Sharma
25. Shri S. C. Samanta
26. Shri Gurmukh Singh Musafir
27. Shri M. Hifzur Rahman

*Appointed on the 6th August, 1956.

-
28. Dr. Suresh Chandra
 29. Shri C. P. Mathew
 30. Shrimati Tarkeshwari Sinha
 31. Seth Govind Das
 32. Shri Rohanlal Chaturvedi
 33. Shri C. R. Basappa
 34. Dr. Lanka Sundaram
 35. Shri U. M. Trivedi
 36. Shri V. G. Deshpande
 37. Shri N. B. Chowdhury
 38. Shri Sadhan Chandra Gupta
 39. Shri Bahadur Singh
 40. Shri Frank Anthony
 41. Shri Ramji Verma
 42. Shri M. S. Gurupadaswamy
 43. Shri V. Veeraswamy
 44. Dr. Mono Mohan Das
 45. Maulana Abul Kalam Azad.

REPORT OF THE JOINT COMMITTEE

I, the Chairman of the Joint Committee to which the Bill* to amend and consolidate the law relating to copyright was referred, having been authorised to submit the Report on their behalf, present this their Report, with the Bill as amended by the Committee annexed thereto.

2. The Bill was introduced in the Rajya Sabha on the 1st October, 1955. The motion for reference of the Bill to a Joint Committee of the Houses (*vide* Appendix I) was moved by me on the 16th February, 1956, and was adopted by the House on the same day.

3. The Lok Sabha discussed the said motion on the 12th March, 30th May and 16th July, 1956, and concurred in it on the 16th July, 1956 (Appendix II).

4. As the Rajya Sabha was not in session, the message from the Lok Sabha was circulated to the members of the Rajya Sabha on the 18th July, 1956.

5. The Rajya Sabha concurred in the recommendation of the Lok Sabha on the 30th July, 1956.

6. The Committee held thirteen sittings in all.

7. The Report of the Joint Committee was to be presented on the 16th August, 1956. The Committee was granted extension of time up to the first day of the Fifteenth Session.

8. The first meeting of the Committee was held on the 13th August, 1956 to draw up the programme of work.

9. The Committee heard the evidence tendered before them by representatives of the organisations specified in Appendix III on the dates mentioned therein. The evidence *in extenso* will be laid on the Table of the House.

10. The Committee took up clause by clause consideration of the Bill on the 22nd October, 1956, and such consideration concluded on the 27th October, 1956.

*Published in Part II—Section 2 of the *Gazette of India Extraordinary*, dated the 1st October, 1955.

11. The Committee appointed two Sub-Committees. The first Sub-Committee was appointed on the 22nd October, 1956 to consider the nature and extent of protection to be given to works made or published by or under the direction or control of the Government, or any Legislature, court, tribunal or other judicial authority in India. The Report of the Sub-Committee was presented to the Committee on the 27th October, 1956 (Appendix IV).

The second Sub-Committee was appointed on the 24th October, 1956, to consider the question of the Copyright Board functioning through Benches in various zones. The Report of the Sub-Committee was presented to the Committee on the 27th October, 1956 (Appendix V).

12. The Committee considered and adopted the draft Report on the 14th November, 1956.

13. The principal changes proposed by the Committee in the Bill and the reasons therefor are set out in the following paragraphs:

General.—Throughout the Bill for the words “mechanical contrivance” or “contrivance”, the word “record” has been substituted. The Committee feels that in view of modern inventions the expression “mechanical contrivance” is a little out of date because now-a-days sounds can be recorded without using any mechanical process *e.g.* by a magnetic tape. Moreover, the expression “record” is a common term which is easily understood.

Enacting formula and clause 1.—The amendments made are formal.

Clause 2.—A new definition of “Adaptation” has been added. The definition incorporates the provisions of sub-clauses (b) and (c) of the original clause 12 and includes certain other kinds of adaptation. The definition of “artistic work” has been redrafted so as to make it clear that certain classes of artistic works will enjoy copyright notwithstanding that they do not possess any artistic quality. This change in the existing law is intended to resolve conflict of judicial opinion on the subject. The definition of “author” in relation to a photograph has been altered. The Committee feels that in the case of a photograph the person who takes the photograph and not the person who is the owner of the original negative should be deemed to be the author of the photograph. The change made in the definition of “author” in relation to a record is purely consequential. The definition of “dramatic work” has been amended so as to exclude from its purview a cinematograph film. Under the Bill a cinematograph film is an independent work which will enjoy copyright apart

from its component parts. A small drafting change has been made in the definition of "exclusive licence". The definition of "Government work" has been enlarged so as to include within its ambit any work made or published by or under the direction or control of any Legislature or any court, tribunal or other judicial authority in India. The definition of "infringing copy" has been recast so as to make its meaning clear in relation to each class of works. The definition of "mechanical contrivance" has been omitted and in its place the expression "record" has been defined. The definition of "performance" has been redrafted so as to make it concise and clear. From the definition of "photograph", a cinematograph film has been excluded. The definition of "pseudonymous work" has been omitted because a self-contained provision has been inserted in respect of pseudonymous works in the revised clause 22. The definition of "radio-diffusion" has been expanded to include television. A new definition of "recording" has been added.

Clause 3.—This clause has been redrafted so as to make it clear that a work shall not be deemed to be published unless sufficient number of copies thereof have been issued to the public. The clause in its revised form is in accordance with Article 4(4) of the Berne Convention.

Clause 4.—The Committee feels that oral transfers of copyright often lead to uncertainty and should be discouraged. References to "consent" and "acquiescence" have, therefore, been omitted from this clause.

Clause 5.—Sub-clause (2) of the original clause 5 has been omitted in view of the new clause 6.

Clause 6 (New).—This is a new clause which replaces sub-clause (2) of original clause 5. It provides that certain disputes about publication etc., should be decided by the Copyright Board and should not be the subject matter of litigation in courts.

Clause 8 (Original clause 7).—In the opinion of the Committee the correct test for determining whether a body corporate is domiciled in India, is not whether it does any business in India but whether it is incorporated under any law in India. The clause has been revised accordingly.

Clauses 11 and 12 (Original clauses 10 and 11).—These clauses have been extensively revised. The Committee feels that the Copyright Board should consist of independent persons and should not contain any representatives of interested parties. In order to ensure

the impartiality of the Copyright Board an express provision has been made that a member of the Board who is interested in any matter arising before the Board should not take part in the proceedings of the Board when that matter is under consideration. Since the Copyright Board has important functions to perform under the Bill, the Committee feels that it should be permissible for Government to appoint a Judge of the Supreme Court as Chairman of the Board. In the opinion of the Committee the functions of the Registrar of Copyrights should be restricted to administrative matters only. The Registrar of Copyrights will not, therefore, be a member of the Board but will act as its Secretary. The Committee is of the view that the Copyright Board should function through various benches sitting at different places in India so that people should have an easy access to it. The jurisdiction of the Copyright Board has accordingly been divided into various zones which correspond to the zones constituted under section 15 of the States Reorganisation Act, 1956.

Clause 13.—In the opinion of the Committee an architectural work of art should not enjoy copyright in this country unless it is located here. Sub-clause (2) of this clause has been amended accordingly.

Clause 14 (Original clause 12).—This clause replaces the original clause 12. The clause sets out separately the rights which are comprised in copyright in relation to each class of works.

Clause 15 (Original clause 14).—The change made in sub-clause (1) is a drafting amendment only. The amendment made in sub-clause (2) is consequential on the decision of the Committee with regard to clause 4.

Clause 17 (Original clause 16).—The various clauses of the proviso have been redrafted. Under clause (a) copyright in a literary, dramatic or artistic work made by an author in the course of his employment by the proprietor of a newspaper, magazine or similar periodical under a contract of service or apprenticeship will be split into two parts. So far as such copyright relates to the publication of the work in any newspaper, magazine or similar periodical or to the reproduction of the work for the purpose of it being so published, it will vest in the proprietor of the newspaper, magazine or periodical. In all other respects the copyright will vest in the author. Clause (b) corresponds to the existing clause (a) of the proviso. It relates to commissioned work. In the opinion of the Committee it is only in

the case of a photograph, painting, portrait, engraving or a cinematograph film that the copyright should vest in the person who commissions the work. The scope of the existing clause (a) has been restricted accordingly. Clause (c) corresponds to the existing clause (b). No substantial change has been made except that cases which fall under the revised clause (a) have been excluded from this clause and the word "otherwise" has been replaced by the word "apprenticeship".

Clause 18 (Original clause 17).—The clause has been amended so as to permit assignment of a future work.

Original clause 18.—The Committee carefully considered this clause and came to the conclusion that it should be omitted. Although the clause purports to protect the interests of authors, in actual practice, it may work adversely against them. The Committee is of the view that a publisher would not offer reasonable royalties to an author if the law allows the author to have the copyright reassigned to him after a certain period. Thus the clause which is an obvious encroachment on the normal principle of freedom of contract is of doubtful benefit to authors. It may be mentioned that representatives of authors who gave evidence before the Committee were also not enthusiastic about the clause.

Clause 19.—The amendments made in this clause are consequential on the omission of the original clause 18.

Clause 20 (New).—This is a new clause which provides for a contingency where the manuscript of a work is bequeathed under a will without the testator making any express provision in respect of the copyright in the manuscript. The clause provides that in such circumstances the copyright in the manuscript will pass along with the manuscript, unless the testator has made a contrary provision in the will.

Clause 21 (Original clause 20).—The Committee feels that India should fall in line with the majority of the Berne Convention countries and that the normal term of copyright should be the life of the author and fifty years thereafter. In the case of a work of joint authorship, the term of fifty years should be computed from the death of the author who dies last. The clause has been revised accordingly.

Clause 22 (original clause 21.)—The clause has been completely revised so as to make the position of anonymous and pseudonymous works clear. In the case of a pseudonymous work of joint authorship, there may be a number of possibilities. The names of some of the

authors may be pseudonyms while the names of some others may not be pseudonyms. Some authors may have disclosed their identity while others may not have done so. The revised clause provides for all such contingencies.

Clause 23 (Original clause 22).—The amendments made in the clause are consequential on the change made in the term of copyright in the new clause 21. A few drafting changes have also been made.

Clause 24 (Original clause 23).—The term of copyright in photographs has been increased from twenty-five years to fifty years in view of the normal term of copyright having been enhanced from life and twenty-five years to life and fifty years. The Committee feels that the term of fifty years should run from the date when the photograph is published and not from the date when it is taken.

Clauses 25 and 26 (Original clauses 24 and 25).—The term of copyright in cinematograph films and records has been increased from twenty-five years to fifty years in view of a similar increase in the term of copyright in other classes of works. The Committee feels that the period of fifty years in the case of records should run from the date when the record is published and not from the date when the original plate from which it was derived was made.

Clauses 27 and 28 (Original clauses 26 and 27).—The term of copyright in Government works and works of International Organisations has been increased from twenty-five years to fifty years.

Clause 29 (Original clause 28).—This clause has been amended so as to provide for a licence being granted in respect of a future work.

Clause 30 (Original clause 29).—The clause has been revised so as to vest the discretion of granting a licence in the Copyright Board instead of in the Registrar of Copyrights. An express provision has been made for the payment of compensation to the owner of copyright. Provision is also made that a licence shall be granted only if the grant of the licence is in the public interest and that it shall not be granted if the work is withdrawn from further circulation. Sub-clause (2) reproduces with suitable modifications the original clause 32 which is being omitted.

Original clauses 30 and 31.—These clauses are being omitted and suitable provision is being made in the revised clause 51.

Clause 31 (Original clause 33).—This clause has been amended so as to provide that a licence for public performance of a work shall not be granted unless the owner of the copyright in the work has been heard and unless the grant of such licence is necessary in the interests of general public. The clause further provides that a licence shall not be granted if the author of the work has withdrawn from further circulation all copies of the work.

Clause 32 (Original clause 35).—The representative of the Performing Right Society, London, who gave evidence before the Committee pointed out that it will not be possible for a Performing Right Society to prepare and publish a list of all its works which run into several thousands. The clause has, therefore, been amended to provide for the publication of only the statement of fees, charges and royalties which a performing right society proposes to collect.

Clauses 33 and 34 (Original clauses 36 and 37).—These clauses have been revised in the light of the amendments made in the previous clause.

Original Clause 34.—This clause is being omitted and suitable provision is being made in the revised clause 51.

Clause 36 (Original clause 39).—Sub-clause (3) has been revised so as to define precisely the rights attaching to a broadcast reproduction right.

Clause 37 (Original clause 40).—A proviso has been added to the clause to make it clear that no person can make records from any programme broadcast unless such person has also obtained a licence for making such records from the owner of the copyright in the work which is broadcast.

Clause 42 (Original clause 45).—It has been provided that every order made under this Chapter shall be laid before Parliament and shall be subject to such modifications as Parliament may make therein.

Clause 50 (Original clause 53).—The clause has been amended so as to make it clear that a contravention of any condition of a licence shall also be an infringement of copyright. In sub-clause (b) the words "with the knowledge that they are infringing copies" have been omitted. An "Explanation" has been added in respect of a cinematograph film which is otherwise excluded from the definition of "infringing copy" in clause 2(1).

Clause 51 (Original clause 54).—This clause has been revised and expanded so as to include all acts which will not constitute an infringement of copyright. The important additions made are the following:—

- (1) the reproduction or publication of any literary, dramatic, musical or artistic work in any work prepared by the Secretariat of a Legislature for the exclusive use of the members of that Legislature;
- (2) the making of records of a literary, dramatic or musical work, if records of such work had previously been made with the licence of the owner of the copyright in the work;
- (3) the production, reproduction, performance or publication of a translation in any Indian language of an Indian work after the expiry of a period of ten years from the date of the first publication of the work; and
- (4) the reproduction, publication or translation of certain classes of Government works.

The first addition is necessary because the Secretariats of the Rajya Sabha and Lok Sabha often produce brochures or pamphlets taking copyright matter (presumably the same practice prevails in the State Legislatures also) for the use of Members of Parliament. The addition is intended to give protection to such brochures or pamphlets.

The second addition is the result of the omission of the original clause 30. The Committee feels that no licence should be required for making records of a work if records of the work had previously been made with the licence of the owner of the copyright in the work.

The third addition replaces the original clause 31. The Committee feels that in a vast country like ours where so many languages are spoken there should be as few restrictions on translation of works as possible. In the opinion of the Committee the provisions of the existing section 4 of the Indian Copyright Act, 1914, relating to translation of works, are quite satisfactory. The Committee has, therefore, substantially retained those provisions.

So far as the fourth addition is concerned, the Committee feels that certain classes of Government works should be in the public

domain. The following classes of Government works have been placed in the public domain:—

- (i) any matter published in the Official Gazette;
- (ii) Acts of Legislatures, subject to the condition that any such Act is reproduced or published together with any commentary thereon or any other original matter;
- (iii) reports of committees etc. appointed by the Government if such report has been laid on the Table of the Legislature, unless the reproduction or publication of the report is prohibited by a competent authority;
- (iv) reproduction of any judgement or order of a court, tribunal or other judicial authority unless such reproduction or publication is prohibited by the court, tribunal or other judicial authority as the case may be.

Clause 52 (Original clause 55).—The new proviso added to sub-clause (3) is consequential on the amendment made in the original clause 68 (revised clause 65).

Clause 53 (Original clause 56).—The clause has been revised so as to include within the definition of "owner of copyright" the publisher of an anonymous or pseudonymous, literary, dramatic, musical or artistic work in certain circumstances.

Clause 54 (Original clause 57).—The proviso to sub-clause (1) has been revised so as to empower the court to grant to the plaintiff in addition to an injunction a decree for the whole or a part of the profits made by the infringer as the court may deem reasonable. Incidentally, in the original proviso the words "that the plaintiff was the owner of the copyright" have been omitted. A new sub-clause (2) has been added to raise certain presumptions about the authorship or the publisher of a literary, dramatic, musical or artistic work.

Clause 56 (Original clause 59).—Sub-clause (1) (b) has been omitted in view of sub-clause (a) of the proviso in the revised clause 17.

Clause 57 (Original clause 60).—The amendment made is a drafting amendment.

Original Clause 63.—This clause has been omitted because there are no grounds for changing the existing law which prescribes a period of limitation of three years.

Clause 61 (Original clause 65).—Sub-clause (2) of the original clause 65 has been omitted and replaced by a new sub-clause. The Committee feels that the provisions of the original sub-clause (2)

would virtually make registration of copyright compulsory and would be an undue restriction on the owner of the copyright to exercise his rights. In the opinion of the Committee many authors are deterred from instituting infringement proceedings because the court in which such proceedings are to be instituted is situated at a considerable distance from the place of their ordinary residence. The Committee feels that this impediment should be removed and the new sub-clause (2) accordingly provides that infringement proceedings may be instituted in the district court within the local limits of whose jurisdiction the person instituting the proceedings ordinarily resides, carries on business, etc.

Clause 62 (Original clause 66).—The Committee feels that the penalty of imprisonment for six months is not adequate particularly in flagrant cases of infringement of copyright. The penalty has, therefore, been increased to one year.

Clause 63 (New).—This is a new clause which enables a police officer not below the rank of a sub-inspector to seize all copies of a work which appear to him to be infringing copies after a magistrate has taken cognizance of an offence relating to infringement of copyright in such work. In the opinion of the Committee such a provision is necessary in the interest of authors and publishers particularly in cases of wholesale and deliberate acts of piracy.

Clause 64 (Original clause 67).—The penalty has been raised from six months to one year.

Clause 65 (Original clause 68).—Sub-clause (2) of the original clause 68 has been omitted in view of the new clause 70.

Clauses 66 and 67 (Original clauses 69 and 70).—In accordance with the decision of the Committee in respect of other penal provisions, the penalty under these clauses has also been raised from six months to one year.

Clause 70 (New).—This clause incorporates the provisions of sub-clause (2) of the original clause 68 and also provides for an appeal against the order of a magistrate made under sub-clause (2) of the new clause 63.

Clause 71 (Original clause 73).—The omission of the proviso in the original clause is consequential on the Registrar of Copyrights ceasing to be a member of the Copyright Board.

Original clause 79.—This clause has been omitted in view of the omission of the original clause 63.

Clause 77 (Original clause 80).—An express provision has been made that Parliament shall be competent to modify any rules made under the clause.

Original clause 81.—This clause is being omitted. It refers to particular matters. It is felt that the provisions of this clause may not be exhaustive, and the better course would be to evolve a general formula which may cover all relevant cases. Such general formulae are contained in sub-clauses (3) and (5) of the revised clause 78.

Clause 78 (Original clause 82).—This clause has been amended in view of the omission of the original clause 81. The new sub-clauses (3) and (5) cover all cases to which reference was made in the original clause 81.

14. The Joint Committee recommends that the Bill as amended be passed.

NEW DELHI;
14th November, 1956.

K. L. SHRIMALI,
Chairman of the Joint Committee.

MINUTES OF DISSENT

I

On the whole, I feel that the Bill has come out very much improved after the consideration by the Joint Committee of both the Houses of Parliament. The provisions have been brought in line with the Berne Convention to which India is a signatory. It has also made improvements in safeguarding the rights of authors. But still I think the following matters require further consideration in the Parliament:—

1. I would like to refer to sub-clause 3 of Clause 13 of the Bill which says that copyright shall not subsist in any cinematograph film or record if in making such film or record, the copyright in any other work has been infringed. I think it will be too hard for *bona fide* producers if the whole copyright is destroyed merely because of some mistake of which the producers were not aware. This is especially hard when vast sums of money are invested and so, I should suggest that this should be made conditional on the infringement being done with knowledge of the copyright. In other cases, penalties may be levied and compensation awarded as the court may think proper.

2. The matter of registration has been discussed more than once in the Joint Committee. The representatives of the P.E.N. etc. were very emphatic that there should not be compulsory registration. Generally in our country I think it is too early to introduce compulsory registration and that the Joint Committee has recognised this. The question whether it will not be good to provide for the automatic registration of a work should be considered.

3. The matter of definition of 'Government works' in clause 2(k) as well as how far certain publications of the Government should be thrown into public domain was discussed at more than one sitting of the Joint Committee. While Clause 51 includes a sub-clause which would give exemption from copyright to the public in certain cases, the Parliament will have to consider these clauses very carefully as to whether the scope of the sub-clauses should be enlarged further in the interest of the public.

4. There are a few other minor matters also which may require improvement. I wouldn't like to lengthen this note by mentioning them.

T. S. AVINASHILINGAM CHETTIAR.

SHRI RAM KRISHNA VIDYALAYA P.O.,

The 14th November, 1956.

II

I welcome the measure. It was long overdue, and I agree to the Report subject to this note of dissent.

I have not appreciated the idea of extending the term of copyright as provided in Clause 21 from 25 years to 50 years after the death of the author. The present age has decried all sorts of proprietary rights and as copyright under this statute, is a property right of a private and exclusive nature, I do not agree to the proposal to extend the term to 50 years, which, in practice, would mean a 'Jagirdari' for three generations to the heirs of the deceased author. This will also result in crop of litigation. I, therefore, recommend that the term should not extend beyond 5 years after the death of the author provided his wife survives him.

U. M. TRIVEDI.

NEW DELHI;

The 16th November, 1956.

III

I do not agree with the provision that "the production, reproduction, performance or publication of a translation in any Indian language of an Indian work after the expiry of a period of ten years from the date of the first publication of the work" will not be considered as an infringement of the copyright.

The idea behind this provision appears to be to encourage the translations of books from one Indian language into another. This is a laudable object. But the provision reduces the term of copyright in respect of translation to ten years. In the original Bill this period was proposed to be co-existent with the copyright in the original work, i.e. till 25 years after the death of the author. But on the suggestion put forth by the Sahitya Akademi as also on the representations and protests made by the authors, the copyright

period in the original work was raised from 25 to 50 years after the death of the author. But what the authors gained in respect of the original work, they have been made to part with in respect of the translation. The Sahitya Akademi had suggested that the copyright in respect of the translation should be co-existent with that in respect of the original work. The original Bill itself had raised the period from 10 years (as it exists now) to 25 years. I am not convinced that there are sound reasons for the reduction of the period from 25 years to 10 years again.

Let us ask the question, what should be the principles on which we can put a limitation on the copyright in respect of the translation of a book. The first principle is that the author should get certain advantages out of the original work that he has created and also out of its translations. The second principle is that the book is not withheld from other languages for unduly long period of time. So far as the first criterion is concerned, an important book in India is ordinarily not taken notice of by other languages until it has held the field in the language of its first publication for 10 to 15 years at least. So, if the copyright period in respect of translation is fixed at 10 years, no Indian author can expect to get any money out of the translation of his work. He must be satisfied with what he gets out of his original work. This will specially hit hard the authors who write in a language which can claim only limited number of readers.

In fact, the existing Act under which the copyright period in respect of translation expires at the end of 10 years from the first publication of the original work, has worked to the utter detriment of the authors. Most of the novels by Sarat Chandra Chatterjee, the famous novelist of Bengal, were translated into Hindi, while the author was yet alive. The novels, in translation sold in thousands of copies, but the author did not get a pie out of their sale-proceeds. He had to be satisfied with what he could get from the publishers in his own language. Something like this also happened in the case of GURUDEVA (Tagore). Publishers in Hindi and other languages were making good money out of the translations of his works, but the poet, revered by the nation, was in his extremely old age touring the country for money to support the Shanti-Niketan.

What are the prospects of translations in this country? It is not yet clear if many books from Hindi (the speakers of which language are most numerous in the country) will be rapidly translated into other languages. But the process of translating books from other Indian languages into Hindi is going on with impressive speed. Hindi provides the largest book-selling market in the country now and there are good prospects that if the law did not deprive the

authors of their legitimate rights, they could get a fair income from the translations of their works. Besides helping the authors economically, the scheme will also inspire good will in them for the Hindi language and strengthen the unity of the country.

And why is it necessary to ensure a fair income to the authors? Firstly, because the books are the property created by the authors and they should be justly allowed a fair share in the income accruing from it. And secondly, the authors need economic freedom to speak out their minds freely. If you do not ensure the author his economic freedom he will be compelled to seek employment under the State or some moneyed man and either of the situations will tend to condition his thinking. Many of our writers, all over the country, have recently joined the A.I.R. or other Government organisations and there is already great comment of their conduct. Suspicions have already begun to be expressed through articles, speeches and comments that the *Sarkari Sahityakara* (Litterateurs associated with the Government) may develop a tendency to suppress their feelings which, ultimately, reflect the feelings of the people. It is, therefore, very essential to ensure all reasonable incomes to the author so that he may lead an independent life if he so chooses.

Taking all these factors into consideration I am of the opinion that the author's copyright in respect of translation should not expire at the end of 10 years from the first publication of the original work, but it should continue till the life-time of the author and for 10 years after his death.

There is a particular point which should be kept in view. Sometimes very hideous translations appear of the books and they cause immense pain to the author of the original work. For example, GURUDEVA did not like that his poems should be translated in verse. Such translations appeared to him horrible. But how could he stop the translators who took advantage of the law? Of course, such crudities cannot be avoided, but, we can, at least, spare the author this pain if we provide that no translation of a book will appear without the consent of the author as long as he is alive. And we should not end the author's copyright simultaneously with his death for it is not improbable to imagine that this may, in extreme cases, excite murderous tendency in persons who may be looking upon certain books with greedy eyes.

The present provision in the Bill is also against the Brussels Text of the Berne Convention to which India is a party. According to the Berne Convention the copyright periods for the original and the translations are the same, i.e., for 50 years. No country which has

ratified the Berne Convention has departed from the term laid down by the said Convention. If we do that, I have doubts, if we shall be qualified to ratify the Brussels Text to which we stand committed.

Greece, Iceland, Ireland and Japan, these are the only four countries where the copyright period in respect of translations ends at the close of ten years after the first publication of the book. So it is in the existing Act of India which we are trying to replace now. I think, when Greece, Iceland, Ireland and Japan take up the revision of their Copyright Laws they will also fall in line with the Berne Convention.

It may be mentioned here that while we are trying to revise our Copyright Act, a similar revision is pending before the British Parliament. The Government of United Kingdom had appointed a Copyright Committee in the year 1952, which has recommended that the British copyright law should be revised to bring it in line with the Berne Convention. The Bill which is now pending before the British Parliament does not anywhere go against the Berne Convention. Then why should we leave a little loop-hole in our Bill?

2. In the original Bill there was a provision for the reversion of the right to the author if he so liked. The Sahitya Akademi had suggested that this could be replaced by the provision that where the author had to part with his copyright in distressing circumstances for paltry sum he or his heir might apply to the Copyright Board for a restoration of his right within a period of 5 years from the commencement of the new Act. The idea was that all such cases should be disposed of by the Copyright Board within 5 years beyond which period no case of this nature would be entertained. But the present Bill does not contain the original proposal nor the suggestion made by the Sahitya Akademi. I am of the opinion that the suggestion made by the Sahitya Akademi should be provided for.

3. I am also doubtful, if the clause laying down that copyright material should be used for the exclusive use of the Members of Parliament without the consent of and payment to the author, who owns the copyright, is in keeping with the spirit of the Constitution or even of the present Bill.

R. D. SINHA DINKER.

NEW DELHI;

The 17th November, 1956.

IV

The authors of literary, musical, artistic and scientific works play a spiritual and mental role which confers profound and lasting benefits on the whole of humanity, and which is the decisive factor in shaping the course of civilization.

The State, therefore, must grant the author the widest possible protection, not merely in consideration of his personal effort but also in recognition of his contribution to the common good.

The utilization of a work of the mind for personal or public use without the authorisation of the author can be justified only by cultural reasons, and by general good to the community, and in so far as such use does not seriously prejudice the economic interests of the author.

The Joint Committee keeping these broad principles in view, modified the various provisions of the Bill which are welcome, but the two clauses 51(1)(d) and 51(1)(p) are against the spirit of these principles, and have made serious inroads into the generally recognised rights of the authors.

Clause 51(1) (p)

Clause 51(1)(p) curtails the translation rights of the author in his intellectual works. In the original proposal of the Bill translation rights were co-existent with the term of the copyright. Now it is proposed to limit his copyright so far as translation rights into any Indian language were concerned, to a period of ten years only from the date of the first publication. We object to this curtailment for the following reasons:—

(a) It is against both the Berne Convention (Brussels Text) and Universal Copyright Convention which read as follows:—

“Authors of literary and artistic works protected by this Convention shall have the *exclusive* right of making and of authorising the translation of their works *throughout* the term of protection of their right in the original works.” (Article 8 of the Berne Convention).

“Copyright shall include the exclusive right of the author to make, publish and authorize the making and publication of translations of works protected under this Convention.” (Article V of the Universal Copyright Convention).

The Universal Copyright Convention, however, provides for non-exclusive licence for translation of a work, if not already done, or if such permission was denied by the owner of the right, subject to just and adequate payment of compensation to the owner of the right of translation; and provided a correct translation was assured. Further licence was not to be issued when the author had withdrawn from circulation all copies of the work.

What the Committee proposes to do is to place the right of translation in the public domain at the end of ten years after the first publication, without any safeguards. We have our doubts whether

we could ratify the two Conventions with such a provision in our Law. If we take recourse to Chapter IX, the Indian authors shall be denied the rights, which shall be enjoyed by their foreign brethren in their own land.

(b) It will seriously injure the economic interests of our authors who need all kinds of encouragement today. A vast majority of our authors are proverbially ill-paid for their creative work.

We can concede in the interest of fostering national and cultural unity, the works in one language must be made available in other languages of India. But this need not be done at the cost of the poor authors and poets, who are the springs and custodians of our cultural heritage. The least we could do was to secure the royalty due to an author in the event of a translation of his work.

Clause 51(1) (d)

This clause has been inserted in order to make available to the Members of Parliament information at short notice on matters of interest and importance, by permitting reproduction of any copyright material. We recognise the importance of having such a clause, but we cannot subscribe to the view that this amenity to Members of Parliament should be subsidised by the writers, authors or copyright owners who are the least capable to bear the burden. Even the Railways, which are rich and flourishing, and are a State enterprise, charge the Secretariats of the two Houses of Parliament for providing travelling facilities to the members of their respective Houses.

The interest of the private research institutions and their publications and of the writers on the economic, political, social subject etc., particularly of current importance, will be adversely affected by this clause whereas these need all protection by this measure.

Moreover, we are not sure whether under the terms of the Berne Convention it will be possible to reproduce the foreign copyright materials.

We, however, suggest that a provision for payment of compensation to the owners of the copyright for such reproduction be made in the Bill and in case of difference of opinion on the reasonable amount of compensation, the Copyright Board could be made the final arbitrator in the matter.

In view of the fact that during the time of the foreign rule some glaring injustices were done to the authors due to the exigencies of the circumstances, the Sahitya Akademi had suggested that this opportunity should be taken to undo such wrongs. Provision should be incorporated to enable authors or their heirs to regain their copyright on such terms and conditions as might be fixed by the Copyright Board, and the effectiveness of such provisions could be limited to a short period, say of 5 years.

Clause 51 (1) (k)

The provision to permit the performance of literary, dramatic or musical work for the benefit of a charitable institution, is liable to be abused by unscrupulous persons, and such a provision has led to litigation in other countries.

Clause 34(5)

The wording of this sub-clause which is similar to Section 50(9) of the Canadian Act, does not provide for the case of a tariff expressed as a percentage of box office takings, revenue from hiring a hall, etc. In Canada authors and composers had to fight protracted litigations in order to clarify the true position. This may be safeguarded against by suitable amendment to this sub-clause.

RAJENDRA PRATAP SINHA
RAGHU VIRA
M. S. GURUPADASWAMY

NEW DELHI;

The 17th November, 1956.

V

Though the Bill as it has emerged from the Joint Committee, is a great improvement on the Bill as introduced in the Rajya Sabha, there are certain aspects of it which are totally unacceptable.

Clause 17

Clause 17, which defines the first owner of copyright perpetrates grave injustice on journalists and authors, who are employed, by depriving them of the ownership of the copyright in their creation, under certain circumstances in the absence of a contract to the contrary. As a matter of principle, the person who created a work should be the owner of the copyright. If there is to be an exception, such exception should be introduced by specific agreement between the author and any other person. Even apart from principles, the provisions of clause 17 would seriously prejudice the position of the authors to whom copyright has been denied in the absence of an agreement to the contrary. This provision would enable unscrupulous employers to obtain valuable copyrights, without adequately paying their employees for it, for the employees can hardly be expected to be in a position to compel such employers to enter into an agreement renouncing the copyright in the creation of the employees. No one would suggest that copyright should be inalienably vested in the employee. What is suggested is only that the employee should be placed in such a position that if the copyright is taken away from him, he should be able to get ample recompense for it. This he can only have if the scheme of the provisions of

clause 17 is reversed and the employee is made the first owner of the copyright in the absence of an agreement to the contrary. For it is much more difficult for an employee to contract into a right and it is much easier for him if the employer is made to contract into it.

It is absolutely necessary for the proper functioning of democracy that the reproduction of the proceedings of legislature and of committees of legislatures should be allowed to be published without incurring any liability for infringement of copyright. The conduct of the representatives of the people inside the legislature must be open to criticism and one of the most effective ways of calling their conduct in question or justifying it before the people is to disseminate widely their speeches and votes in the legislature. To put any restrictions on such a course would make a travesty of democracy.

There are one or two other points which are open to criticism.

Clause 2

The definition of adaptation is likely to narrow down the meaning of the word and might thereby exclude many important kinds of adaptations, for example, converting a dramatic work into an opera.

It is difficult to understand why in the definition of exclusive licensee, the assignee of an exclusive licensee has been brought in. It is illogical and absurd to authorize a licensee to assign his licence.

Clauses 24 to 27

The term of copyright in photographs, cinematograph films and records which has been fixed at 50 years in each case appears to be excessive. No instance has as yet been known of any photograph, cinematograph film or record, which retains any financial value for such a long time. The term in the case of Government work should also be reduced, because Government is not primarily a book-seller, and any work made or published by it should, after a reasonable time, be freely accessible to the public.

Clause 36

The term of 25 years fixed for a broadcast reproduction right is also inordinately long, because no broadcast programme could reasonably retain any value for such a length of time.

SADHAN CHANDRA GUPTA
ABDUR REZZAK KHAN

NEW DELHI;
The 17th November, 1956.

Bill No. XVB of 1955

THE COPYRIGHT BILL, 1956

(AS AMENDED BY THE JOINT COMMITTEE)

(Words side-lined or under-lined indicate the amendments made by the Joint Committee; asterisks indicate omissions.)

A

BILL

to amend and consolidate the law relating to copyright.

BE it enacted by Parliament in the Seventh Year of the Republic of India as follows:—

CHAPTER I

PRELIMINARY

5 1. (1) This Act may be called the Copyright Act, 1956.

(2) It extends to the whole of India.

(3) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint.

Short title,
extent and
commence-
ment.

2. In this Act, unless the context otherwise requires,—

10 (a) “adaptation” means,—

Interpreta-
tion.

(i) in relation to a dramatic work, the conversion of the work into a non-dramatic work;

(ii) in relation to a literary work or an artistic work, the conversion of the work into a dramatic work by way of performance in public or otherwise;

15

(iii) in relation to a literary or dramatic work, any abridgement of the work or any version of the work in which the story or action is conveyed wholly or mainly by means of pictures in a form suitable for reproduction in a book, or in a newspaper, magazine or similar periodical; and 5

(iv) in relation to a musical work, any arrangement or transcription of the work;

(b) "architectural work of art" means any building or structure having an artistic character or design, or any model for such building or structure; 10

(c) "artistic work" means—

(i) a painting, a sculpture, a drawing (including a diagram, map, chart or plan), an engraving or a photograph, whether or not any such work possesses artistic quality; 15

(ii) an architectural work of art; and

(iii) any other work of artistic craftsmanship.

(d) "author" means,—

(i) in relation to a literary or dramatic work, the author of the work; 20

(ii) in relation to a musical work, the composer;

(iii) in relation to an artistic work other than a photograph, the artist;

(iv) in relation to a photograph, the person taking the photograph; 25

(v) in relation to a cinematograph film, the owner of the film at the time of its completion; and

(vi) in relation to a record, the owner of the original plate from which the record is made, at the time of the making of the plate; 30

(e) "calendar year" means the year commencing on the 1st day of January;

(f) "cinematograph film" includes the sound track, if any, and "cinematograph" shall be construed as including any work produced by any process analogous to cinematography; 35

(g) "delivery" in relation to a lecture, includes delivery by means of any mechanical instrument or by radio-diffusion;

5 (h) "dramatic work" includes any piece for recitation, choreographic work or entertainment in dumb show, the scenic arrangement or acting form of which is fixed in writing or otherwise but does not include a cinematograph film;

(i) "engravings" include etchings, lithographs, wood-cuts, prints and other similar works, not being photographs;

10 (j) "exclusive licence" means a licence which confers on the licensee or on the licensee and persons authorised by him, to the exclusion of all other persons (including the owner of the copyright), any right comprised in the copyright in a work, and "exclusive licensee" shall be construed accordingly;

15 (k) "Government work" means a work which is made or published by or under the direction or control of—

(i) the Government or any department of the Government;

(ii) any Legislature in India;

20 (iii) any court, tribunal or other judicial authority in India;

(l) "infringing copy" means,—

(i) in relation to a literary, dramatic, musical or artistic work, a reproduction thereof otherwise than in the form of a cinematograph film;

25 (ii) in relation to a cinematograph film, a copy of the film or a record embodying the recording in any part of the sound track associated with the film;

(iii) in relation to a record, any such record embodying the same recording; and

30 (iv) in relation to a programme in which a broadcast reproduction right subsists under section 36, a record recording the programme,

if such reproduction, copy or record is made or imported in contravention of the provisions of this Act;

(m) "lecture" includes address, speech and sermon;

(n) "literary work" includes tables and compilations;

* * * * *

(o) "musical work" means any combination of melody and harmony or either of them, printed, reduced to writing or otherwise graphically produced or reproduced; 5

(p) "performance" includes any mode of visual or acoustic presentation, including any such presentation by the exhibition of a cinematograph film, or by means of radio-diffusion, or by the use of a record, or by any other means and, in relation to a lecture, includes the delivery of such lecture; 10

(q) "performing rights society" means a society, association or other body, whether incorporated or not, which carries on business in India of issuing or granting licences for the performance in India of any works in which copyright subsists; 15

(r) "photograph" includes photo-lithograph and any work produced by any process analogous to photography but does not include any part of a cinematograph film;

(s) "plate" includes any stereotype or other plate, stone, block mould, matrix, transfer, negative or other device used or intended to be used for printing or reproducing copies of any work, and any matrix or other appliance by which records for the acoustic presentation of the work are or are intended to be made; 20

(t) "prescribed" means prescribed by rules made under this Act; 25

* * * * *

(u) "radio-diffusion" includes communication to the public by any means of wireless diffusion whether in the form of sounds or visual images or both; 30

(v) "record" means any disc, tape, perforated roll or other device in which sounds are embodied so as to be capable of being reproduced therefrom, other than a sound track associated with a cinematograph film;

(w) "recording" means the aggregate of the sounds embodied in and capable of being reproduced by means of a record; 35

(x) "work" means any of the following works, namely:—

(i) a literary, dramatic, musical or artistic work;

(ii) a cinematograph film;

(iii) a record;

(y) "work of joint authorship" means a work produced by the collaboration of two or more authors in which the contribution of one author is not distinct from the contribution of the other author or authors;

(z) "work of sculpture" includes casts and models.

3. For the purposes of this Act, "publication" means,—

Meaning of publication.

(a) in the case of a literary, dramatic, musical or artistic work, the issue of copies of the work to the public in sufficient quantities;

(b) in the case of a cinematograph film, the sale or hire or offer for sale or hire of the film or copies thereof to the public;

(c) in the case of a record, the issue of records to the public in sufficient quantities;

but does not, except as otherwise expressly provided in this Act, include,—

(i) in the case of a literary, dramatic or musical work, the issue of any records recording such work;

(ii) in the case of a work of sculpture or an architectural work of art, the issue of photographs and engravings of such work.

4. Except in relation to infringement of copyright, a work shall not be deemed to be published or performed in public, if published, or performed in public, without the licence of the owner of the copyright.

When work not deemed to be published or performed in public.

5. For the purposes of this Act, a work published in India shall be deemed to be first published in India, notwithstanding that it has been published simultaneously in some other country, unless such other country provides a shorter term of copyright for such work; and a work shall be deemed to be published simultaneously in India and in another country if the time between the publication in India and the publication in such other country does not exceed thirty days or such other period as the Central Government may, in relation to any specified country, determine.

When work deemed to be first published in India.

Certain
disputes
to be decided
by Copyright
Board.

6. If any question arises,—

(a) whether for the purposes of section 3, copies of any literary, dramatic, musical or artistic work, or records are issued to the public in sufficient quantities; or

(b) whether for the purposes of section 5, the term of copy-
right for any work is shorter in any other country than that
provided in respect of that work under this Act; 5

it shall be referred to the Copyright Board constituted under section 11 whose decision thereon shall be final.

Nationality
of author
where the
making of
unpubli-
shed work
is extended
over consi-
derable
period.

7. Where, in the case of an unpublished work, the making of the
work is extended over a considerable period, the author of the
work shall, for the purposes of this Act, be deemed to be a citizen
of, or domiciled in, that country of which he was a citizen or
wherein he was domiciled during any substantial part of that
period. 15

Domicile of
corporations.

8. For the purposes of this Act, a body corporate shall be deemed
to be domiciled in India if it is incorporated under any law in force in
India.

CHAPTER II

COPYRIGHT OFFICE AND COPYRIGHT BOARD

20

Copyright
Office.

9. (1) There shall be established for the purposes of this Act an
office to be called the Copyright Office.

(2) The Copyright Office shall be under the immediate control of
the Registrar of Copyrights who shall act under the superintendence
and direction of the Central Government. 25

(3) There shall be a seal for the Copyright Office.

Registrar
and Deputy
Registrars of
Copyrights.

10. (1) The Central Government shall appoint a Registrar of Copy-
rights and may appoint one or more Deputy Registrars of Copy-
rights.

(2) A Deputy Registrar of Copyrights shall discharge under the
superintendence and direction of the Registrar of Copyrights such
functions of the Registrar under this Act as the Registrar may, from
time to time, assign to him; and any reference in this Act to the
Registrar of Copyrights shall include a reference to a Deputy
Registrar of Copyrights when so discharging any such functions. 35

Copyright
Board.

11. (1) As soon as may be after the commencement of this Act,
the Central Government shall constitute a Board to be called the
Copyright Board which shall consist of a Chairman and not less
than two nor more than eight other members.

(2) The Chairman and other members of the Copyright Board shall hold office for such period and on such terms and conditions as may be prescribed.

(3) The Chairman of the Copyright Board shall be a person who is, or has been, a Judge of the Supreme Court or a High Court or is qualified for appointment as a Judge of a High Court.

(4) The Registrar of Copyrights shall be the Secretary of the Copyright Board and shall perform such functions as may be prescribed.

10 12. (1) The Copyright Board shall, subject to any rules that may be made under this Act, have power to regulate its own procedure, including the fixing of places and times of its sittings:

Powers and
procedure of
Copyright
Board.

15 Provided that the Copyright Board shall hear any proceeding instituted before it under this Act within the zone in which, at the time of the institution of the proceeding, the person instituting the proceeding actually and voluntarily resides or carries on business or personally works for gain.

37 of 1956.

Explanation.—In this sub-section “zone” means a zone specified in section 15 of the States Reorganisation Act, 1956.

20 (2) The Copyright Board may exercise and discharge its powers and functions through Benches constituted by the Chairman of the Copyright Board from amongst its members, each Bench consisting of not less than three members.

25 (3) If there is a difference of opinion among the members of the Copyright Board or any Bench thereof in respect of any matter coming before it for decision under this Act, the opinion of the majority shall prevail:

Provided that where there is no such majority—

30 (i) if the Chairman was one of the members who heard the matter, the opinion of the Chairman shall prevail;

(ii) if the Chairman was not one of the members who heard the matter, the matter shall be referred to him for his opinion and that opinion shall prevail.

35 (4) The Copyright Board may authorise any of its members to exercise any of the powers conferred on it by***section 73 and any order made or act done in exercise of those powers by the member so authorised shall be deemed to be the order or act, as the case may be, of the Board.

(5) No member of the Copyright Board shall take part in any proceedings before the Board in respect of any matter in which he has a personal interest.

(6) No act done or proceeding taken by the Copyright Board under this Act shall be questioned on the ground merely of the existence of any vacancy in, or defect in the constitution of, the Board.

(7) The Copyright Board shall be deemed to be a civil court for the purposes of sections 480 and 482 of the Code of Criminal Procedure, 1898, and all proceedings before the Board shall be deemed to be judicial proceedings within the meaning of sections 193 and 228 of the Indian Penal Code. 5 of 1898. 45 of 1860.

CHAPTER III

COPYRIGHT

* * * * *

Works in which copyright subsists.

13. (1) Subject to the provisions of this section and the other provisions of this Act, copyright shall subsist throughout India in the following classes of works, that is to say,—

- (a) original literary, dramatic, musical and artistic works;
- (b) cinematograph films; and
- (c) records.

(2) Copyright shall not subsist in any work specified in sub-section (1), other than a work to which the provisions of section 39 or section 40 apply, unless,—

(i) in the case of a published work, the work is first published in India, or where the work is first published outside India, the author is at the date of such publication, or in a case where the author was dead at that date, was at the time of his death, a citizen of India;*

(ii) in the case of an unpublished work other than an architectural work of art, the author is at the date of the making of the work a citizen of India or domiciled in India; and

(iii) in the case of an architectural work of art, the work is located in India.

Explanation.—In the case of a work of joint authorship, the conditions conferring copyright specified in this sub-section shall be satisfied by all the authors of the work.

(3) Copyright shall not subsist in any cinematograph film or record if in making such film or record the copyright in any other work has been infringed.

(4) The copyright in a cinematograph film or a record shall not affect the separate copyright in any work in respect of which or a substantial part of which, the film, or as the case may be, the record is made.

(5) In the case of an architectural work of art, copyright shall subsist only in the artistic character and design and shall not extend to processes or methods of construction.

14. (1) For the purposes of this Act, "copyright" means the exclusive right, by virtue of and subject to the provisions of this Act,—

Meaning of copyright.

(a) in the case of a literary, dramatic or musical work, to do and authorise the doing of any of the following acts, namely:—

(i) to reproduce the work in any material form;

(ii) to publish the work;

(iii) to perform the work in public;

(iv) to produce, reproduce, perform or publish any translation of the work;

(v) to make any cinematograph film or a record in respect of the work;

(vi) to communicate the work by radio-diffusion or to communicate to the public by a loud-speaker or any other similar instrument the radio-diffusion of the work;

(vii) to make any adaptation of the work;

(viii) to do in relation to a translation or an adaptation of the work any of the acts specified in relation to the work in clauses (i) to (vi);

(b) in the case of an artistic work, to do or authorise the doing of any of the following acts, namely:—

(i) to reproduce the work in any material form;

(ii) to publish the work;

(iii) to include the work in any cinematograph film;

(iv) to make any adaptation of the work;

(v) to do in relation to an adaptation of the work any of the acts specified in relation to the work in clause (i) to (iii).

(c) in the case of a cinematograph film to do or authorise the doing of any of the following acts, namely:—

(i) to make a copy of the film;

(ii) to cause the film, in so far as it consists of visual images, to be seen in public and, in so far as it consists of sounds, to be heard in public; 5

(iii) to make any record embodying the recording in any part of the sound track associated with the film by utilising such sound track;

(iv) to communicate the film by radio-diffusion; 10

(d) in the case of a record, to do or authorise the doing of any of the following acts by utilising the record, namely:—

(i) to make any other record embodying the same recording;

(ii) to cause the recording embodied in the record to be heard in public; 15

(iii) to communicate the recording embodied in the record by radio-diffusion.

(2) Any reference in sub-section (1) to the doing of any act in relation to a work or a translation or an adaptation thereof shall include a reference to the doing of that act in relation to a substantial part thereof. 20

15. (1) Copyright shall not subsist under this Act in any design which is registered under the Indian Patents and Designs Act, 1911. 2 of 1911.

(2) Copyright in any design, which is capable of being registered under the Indian Patents and Designs Act, 1911, but which has not been so registered, shall cease as soon as any article to which the design has been applied has been reproduced more than fifty times by an industrial process by the owner of the copyright or, with his licence, by any other person. 2 of 1911. 30

Special provision regarding copyright in designs registered or capable of being registered under the Indian Patents and Designs Act, 1911.

No copyright except as provided in this Act.

16. No person shall be entitled to copyright or any similar right in any work, whether published or unpublished, otherwise than under and in accordance with the provisions of this Act or of any other law for the time being in force, but nothing in this section shall be construed as abrogating any right or jurisdiction to restrain a breach of trust or confidence. 35

CHAPTER IV

OWNERSHIP OF COPYRIGHT AND THE RIGHTS OF THE OWNER

17. Subject to the provisions of this Act, the author of a work shall be the first owner of the copyright therein: First owner
of copyright.

5 Provided that—

 (a) in the case of a literary, dramatic or artistic work made by the author in the course of his employment by the proprietor of a newspaper, magazine or similar periodical under a contract of service or apprenticeship, for the purpose of publication in a newspaper, magazine or similar periodical, the said proprietor shall, in the absence of any agreement to the contrary, be the first owner of the copyright in the work in so far as the copyright relates to the publication of the work in any newspaper, magazine or similar periodical, or to the reproduction of the work for the purpose of its being so published but in all other respects the author shall be the first owner of the copyright in the work;

 (b) subject to the provisions of clause (a), in the case of a photograph taken, or a painting or portrait drawn, or an engraving or a cinematograph film made, for valuable consideration at the instance of any person, such person shall, in the absence of any agreement to the contrary, be the first owner of the copyright therein;

 (c) in the case of a work made in the course of the author's employment under a contract of service or apprenticeship, to which clause (a) or clause (b) does not apply, the employer shall, in the absence of any agreement to the contrary, be the first owner of the copyright therein;

 (d) in the case of a Government work, Government shall, in the absence of any agreement to the contrary, be the first owner of the copyright therein;

 (e) in the case of a work to which the provisions of section 40 apply, the international organisation concerned shall be the first owner of the copyright therein;

18. (1) The owner of the copyright in an existing work or the prospective owner of the copyright in a future work may assign to any person the copyright either wholly or partially and either generally or subject to limitations and either for the whole term of the copyright or any part thereof: Assignment
of copyright.

40 Provided that in the case of the assignment of copyright in any future work, the assignment shall take effect only when the work comes into existence.

(2) Where the assignee of a copyright becomes entitled to any right comprised in the copyright, the assignee as respects the rights so assigned, and the assignor as respects the rights not assigned, shall be treated for the purposes of this Act as the owner of copyright and the provisions of this Act shall have effect accordingly. 5

(3) In this section, the expression "assignee" as respects the assignment of the copyright in any future work includes the legal representatives of the assignee, if the assignee dies before the work comes into existence.

* * * * *

10

Mode of
assignment.

19. No assignment * * of the copyright in any work shall be valid unless it is in writing signed by the assignor or *** by his duly authorised agent.

Transmission
of copyright
in manuscript
by testamen-
tary disposi-
tion.

20. Where under a bequest a person is entitled to the manuscript of a literary, dramatic or musical work, or to an artistic work, and 15 the work was not published before the death of the testator, the bequest shall, unless the contrary intention is indicated in the testator's will or any codicil thereto, be construed as including the copyright in the work in so far as the testator was the owner of the copyright immediately before his death. 20

Explanation.—In this section, the expression "manuscript" means the original document embodying the work, whether written by hand or not.

CHAPTER V

TERM OF COPYRIGHT

25

Term of
copyright in
published
literary, dra-
matic, musi-
cal and artis-
tic works.

21. Except as otherwise hereinafter provided, copyright shall subsist in any literary, dramatic, musical or artistic work (other than a photograph) published within the lifetime of the author until 30 fifty years from the beginning of the calendar year next following the year in which the author dies.

Explanation.—In this section the reference to the author shall, in the case of a work of joint authorship, be construed as a reference to the author who dies last.

Term of
copyright in
anonymous
and pseu-
donymous
works.

22. (1) In the case of a literary, dramatic, musical, or artistic work (other than a photograph), which is published anonymously or 35 pseudonymously, copyright shall subsist until fifty years from the beginning of the calendar year next following the year in which the work is first published:

Provided that where the identity of the author is disclosed before the expiry of the said period, copyright shall subsist until fifty years 40

from the beginning of the calendar year next following the year in which the author dies.

(2) In sub-section (1), references to the author shall, in the case of an anonymous work of joint authorship, be construed,—

5 (a) where the identity of one of the authors is disclosed, as references to that author;

(b) where the identity of more authors than one is disclosed, as references to the author who dies last from amongst such authors.

10 (3) In sub-section (1), references to the author shall, in the case of a pseudonymous work of joint authorship, be construed,—

(a) where the names of one or more (but not all) of the authors are pseudonyms and his or their identity is not disclosed, as references to the author whose name is not a pseudonym, or, if the names of two or more of the authors are not
15 pseudonyms, as references to such of those authors who dies last;

(b) where the names of one or more (but not all) of the authors are pseudonyms and the identity of one or more of them is disclosed, as references to the author who dies last
20 from amongst the authors whose names are not pseudonyms and the authors whose names are pseudonyms and are disclosed; and

(c) where the names of all the authors are pseudonyms and the identity of one of them is disclosed, as references to the author
25 whose identity is disclosed or if the identity of two or more of such authors is disclosed, as references to such of those authors who dies last.

Explanation.—For the purposes of this section, the identity of an author shall be deemed to have been disclosed, if either the identity
30 of the author is disclosed publicly by both the author and the publisher or is otherwise established to the satisfaction of the Copyright Board by that author.

23. (1) In the case of a literary, dramatic or musical work or an adaptation of any such work or an engraving, in which copyright
35 subsists at the date of the death of the author or, in the case of any such work of joint authorship, at or immediately before the date of the death of the author who dies last, but which has not been published before that date, copyright shall subsist until fifty years from the beginning of the calendar year next following the year in
40 which the work is first published.

Term of
copyright
in posthu-
mous works.

(2) For the purposes of this section a literary, dramatic or musical work or an adaptation of any such work shall be deemed to have been published, if it has been performed in public or if any records made in respect of the work have been sold to the public or have been offered for sale to the public.

5

Term of
copyright in
photographs.

24. In the case of a photograph, copyright shall subsist until fifty years from the beginning of the calendar year next following the year in which the photograph is published.

Term of
copyright in
cinematograph
films.

25. In the case of a cinematograph film, copyright shall subsist until fifty years from the beginning of the calendar year next following the year in which a certificate for public exhibition in respect of the film is granted under section 4 of the Cinematograph Act, 1952.

37 of 1952.

Term of
copyright in
records.

26. In the case of a record, copyright shall subsist until fifty years from the beginning of the calendar year next following the year in which the record is published.

15

Term of
copyright in
Government
works

27. In the case of a Government work, where Government is the first owner of the copyright therein, copyright shall subsist until fifty years from the beginning of the calendar year next following the year in which the work is first published.

Term of
copyright in
works of
international
organisations.

28. In the case of a work of an international organisation to which the provisions of section 40 apply, copyright shall subsist until fifty years from the beginning of the calendar year next following the year in which the work is first published.

20

CHAPTER VI

LICENCES

25

Licences by
owners of
copyright.

29. The owner of the copyright in any existing work or the prospective owner of the copyright in any future work may grant any interest in the right by licence in writing signed by him or by his duly authorised agent:

Provided that in the case of a licence relating to copyright in any future work, the licence shall take effect only when the work comes into existence.

30

Explanation.—Where a person to whom a licence relating to copyright in any future work is granted under this section dies before the work comes into existence, his legal representatives shall, in the absence of any provision to the contrary in the licence, be entitled to the benefit of the licence.

35

30. (1) If at any time during the term of copyright in any work which has been published or performed in public, a complaint is made to * * * the Copyright Board that the owner of copyright in the work—

Compulsory
licence in
works
withheld
from public.

5 (a) has refused to republish or allow the republication of the work or has refused to allow the performance in public of the work, and by reason of such refusal the work is withheld from the public; or

10 (b) has refused to allow communication to the public by radio-diffusion of such work or in the case of a record the work recorded in such record, on terms which the complainant considers reasonable;

15 the Copyright Board, after giving to the owner of the copyright in the work a reasonable opportunity of being heard and after holding such inquiry as it may deem necessary, may, if it is satisfied that it is in the interests of the general public so to do, direct the Registrar of Copyrights to grant to the complainant a licence to republish the work, perform the work in public or communicate the work to the public by radio-diffusion, as the case may be, subject to payment to the owner of the copyright of such compensation and subject to
20 such other terms and conditions as the Copyright Board may determine; and thereupon the Registrar of Copyrights shall grant the licence to the complainant in accordance with the directions of the Copyright Board, on payment of such fee as may be prescribed:

25 Provided that no such licence shall be granted in respect of any work if the owner of the copyright in the work has withdrawn the work from further circulation.

(2) Where two or more persons have made a complaint under sub-section (1), * * * the licence shall be granted to the complainant
30 who in the opinion of the Copyright Board would best serve the interests of the general public.

31. (1) The Registrar of Copyrights may on payment of such fee as may be prescribed and, subject to such other terms and conditions as he deems fit, grant a general or special licence for public
35 performance of any literary, dramatic or musical work in which copyright subsists by means of a radio-receiving set or a record in any specified place or by any specified person.

Licences
for public
performance.

(2) A general licence granted under sub-section (1) shall be subject to the previous approval of the Copyright Board and shall be
40 published in the Official Gazette.

(3) No licence, whether general or special, shall be granted under this section,—

(i) unless an opportunity of being heard is given, wherever practicable, to the owner of the copyright in the work and unless the Registrar of Copyrights is satisfied that, for reasons to be recorded in writing, the grant of such licence is necessary in the interests of the general public; or

(ii) if the owner of the copyright in the work has withdrawn the work from further circulation.

* * * * *

CHAPTER VII

PERFORMING RIGHTS SOCIETIES

Performing rights society to file statements of fees, charges and royalties.

32. (1) Every performing rights society shall, within the prescribed time and in the prescribed manner, prepare, publish and file with the Registrar of Copyrights, statements of all fees, charges or royalties which it proposes to collect for the grant of licences for performance in public of works in respect of which it has authority to grant such licences.

(2) If any such society fails to prepare, publish or file with the Registrar of Copyrights the *** statements referred to in sub-section (1) in relation to any work in accordance with the provisions of that sub-section, no action or other proceeding to enforce any remedy, civil or criminal, for infringement of the performing rights in that work shall be commenced except with the consent of the Registrar of Copyrights.

* * * * *

Objections relating to published statements.

33. Any person having any objections to any fees, charges or royalties or other particulars included in any statement referred to in section 32 may at any time lodge such objections in writing at the Copyright Office.

Determination of objections.

34. (1) Every objection lodged at the Copyright Office under section 33 shall, as soon as may be, be referred to the Copyright Board and the Copyright Board shall decide such objection in the manner hereinafter provided.

(2) The Copyright Board shall, in respect of every such objection, give notice thereof to the performing rights society concerned.

(3) The Copyright Board shall, after giving such society and the person who lodged the objection a reasonable opportunity of being heard and after making such further inquiry as may be prescribed, make such alterations in the statements as it may think fit, and shall transmit the alterations made by it to the Registrar of Copyrights, who shall thereupon, as soon as practicable after the receipt of such alterations, publish them in the Official Gazette and furnish the performing rights society concerned and the person who lodged the objection with a copy thereof.

(4) The fees, charges or royalties as altered by the Copyright Board shall be the fees, charges or royalties which the performing rights society concerned may respectively lawfully sue for or collect in respect of the grant by it of licences for the performance in public of works to which such fees, charges or royalties relate.

(5) No performing rights society shall have any right of action or any right to enforce any civil or other remedy for infringement of the performing rights in any work * * * against any person who has tendered or paid to such society the fees, charges or royalties specified in respect of that work in a statement published by that society under sub-section (1) of section 32 or where such statement has been altered by the Copyright Board under this section in the statement so altered.

(6) Where any person has lodged an objection at the Copyright Office regarding the fees, charges or royalties in respect of any work included in a statement published under section 32, that person or any other person, on depositing such fees, charges or royalties at the Copyright Office, may, pending the final decision of such objection by the Copyright Board or the High Court, as the case may be, perform that work without infringing the copyright there-
in.

(7) The fees, charges or royalties deposited at the Copyright Office under sub-section (6) shall be paid to the performing rights society concerned or to the person who made the deposit, or partly to such society and partly to such person, in accordance with the final decision on the objection as aforesaid.

35. Nothing in this Chapter shall be deemed to affect—

(a) any rights or liabilities in relation to the performing rights in any work accrued or incurred before the commencement of this Act;

Existing
rights not
affected.

(b) any legal proceedings in respect of such rights or liabilities pending at such commencement.

CHAPTER VIII

RIGHTS OF BROADCASTING AUTHORITIES

Broadcast reproduction rights.

36. (1) Where any programme is broadcast by radio-diffusion by the Government or any other broadcasting authority, a special right to be known as "broadcast reproduction right" shall subsist in such programme. 5

(2) The Government or other broadcasting authority, as the case may be, shall be the owner of the broadcast reproduction right and such right shall subsist until twenty-five years from the beginning of the calendar year next following the year in which the programme is first broadcast. 10

(3) During the continuance of a broadcast reproduction right in relation to any programme, any person who,— 15

(a) without the licence of the owner of the right—

(i) rebroadcasts the programme in question or any substantial part thereof; or

(ii) causes the programme in question or any substantial part thereof to be heard in public; or 20

(b) without the licence of the owner of the right to utilise the broadcast for the purpose of making a record recording the programme in question or any substantial part thereof, makes any such record, shall be deemed to infringe that broadcast reproduction right. 25

Other provisions of this Act to apply to broadcast reproduction rights.

37. Section 18, section 29 and section 54*** (which relate to assignments and licences and civil remedies for infringement) shall, with any necessary adaptations and modifications, apply in relation to the broadcast reproduction right in any programme as they apply in relation to the copyright in a work: 30

Provided that a licence to utilise a broadcast for the purpose of making a record recording a programme in which broadcast reproduction right subsists or any substantial part of such programme, shall not take effect unless the person to whom such licence is granted has also obtained a licence to make records recording the work embodied in such programme from the owner of the copyright in such work. 35

38. For the removal of doubts, it is hereby declared that the Other rights not affected.
broadcast reproduction right conferred upon a broadcasting authority under this Chapter shall not affect the copyright—

5 (a) in any literary, dramatic or musical work which is broadcast by that authority; or

(b) in any record recording any such work.

CHAPTER IX

INTERNATIONAL COPYRIGHT

39. (1) The Central Government may, by order published in Power to extend copyright to foreign works.
10 the Official Gazette, direct that all or any provisions of this Act shall apply—

(a) to works first published in any territory outside India to which the order relates in like manner as if they were first published within India;

15 (b) to unpublished works, or any class thereof, the authors whereof were at the time of the making of the work, subjects or citizens of a foreign country to which the order relates, in like manner as if the authors were citizens of India;

20 (c) in respect of domicile in any territory outside India to which the order relates in like manner as if such domicile were in India;

25 (d) to any work of which the author was at the date of the first publication thereof, or, in a case where the author was dead at that date, was at the time of his death, a subject or citizen of a foreign country to which the order relates in like manner as if the author was a citizen of India at that date or time;

and thereupon, subject to the provisions of this Chapter and of the order, this Act shall apply accordingly:

Provided that—

30 (i) before making an order under this section in respect of any foreign country (other than a country with which India has entered into a treaty or which is a party to a convention relating to copyright to which India is also a party), the Central Government shall be satisfied that that foreign country has made, or
35 has undertaken to make, such provisions, if any, as it appears

to the Central Government expedient to require for the protection in that country of works entitled to copyright under the provisions of this Act;

(ii) the order may provide that the provisions of this Act shall apply either generally or in relation to such classes of works or such classes of cases as may be specified in the order;

(iii) the order may provide that the term of copyright in India shall not exceed that conferred by the law of the country to which the order relates;

(iv) the order may provide that the enjoyment of the rights so conferred by this Act shall be subject to the accomplishment of such conditions and formalities, if any, as may be prescribed by the order;

(v) in applying the provisions of this Act as to ownership of copyright, the order may make such exceptions and modifications as appear necessary, having regard to the law of the foreign country;

(vi) the order may provide that this Act or any part thereof shall not apply to works made before the commencement of the order or that this Act or any part thereof shall not apply to works first published before the commencement of the order.

Provisions as to works of certain international organisations.

40. (1) Where—

(a) any work is made or first published by or under the direction or control of any organisation to which this section applies, and 25

(b) there would, apart from this section, be no copyright in the work in India at the time of the making or, as the case may be, of the first publication thereof, and

(c) either—

(i) the work is published as aforesaid in pursuance of an agreement in that behalf with the author, being an agreement which does not reserve to the author the copyright, if any, in the work, or 30

(ii) under section 17 any copyright in the work would belong to the organisation; 35

there shall, by virtue of this section, be copyright in the work throughout India.

(2) Any organisation to which this section applies which at the material time had not the legal capacity of a body corporate shall have and be deemed at all material times to have had the legal capacity of a body corporate for the purpose of holding, dealing
5 with, and enforcing copyright and in connection with all legal proceedings relating to copyright.

(3) The organisations to which this section applies are such organisations as the Central Government may, by order published in the Official Gazette, declare to be organisations of which one or
10 more sovereign powers or the Government or Governments thereof are members to which it is expedient that this section shall apply.

41. If it appears to the Central Government that a foreign country does not give or has not undertaken to give adequate
15 protection to the works of Indian authors, the Central Government may, by order published in the Official Gazette, direct that such of the provisions of this Act as confer copyright on works first published in India shall not apply to works, published after the date specified in the order, the authors whereof are subjects or
20 citizens of such foreign country, and are not domiciled in India, and thereupon those provisions shall not apply to such works.

Power to restrict rights in works of foreign authors first published in India.

42. Every order made by the Central Government under this Chapter shall, as soon as may be after it is made, be laid before both Houses of Parliament and shall be subject to such modifications as
25 Parliament may make during the session in which it is so laid or the session immediately following.

Orders under this Chapter to be laid before Parliament.

CHAPTER X

REGISTRATION OF COPYRIGHT

43. There shall be kept at the Copyright Office a register in
30 the prescribed form to be called the Register of Copyrights in which may be entered the names or titles of works and the names and addresses of authors, publishers and owners of copyright and such other particulars as may be prescribed.

Register of Copyrights.

44. (1) The author or publisher of, or the owner of or other
35 person interested in the copyright in, any work may make an application in the prescribed form accompanied by the prescribed

Entries in Register of Copyrights.

fee to the Registrar of Copyrights for entering particulars of the work in the Register of Copyrights.

(2) On receipt of an application in respect of any work under sub-section (1), the Registrar of Copyrights may, after holding such inquiry as he may deem fit, enter the particulars of the work in the Register of Copyrights.

Indexes.

45. There shall be also kept at the Copyright Office such indexes of the Register of Copyrights as may be prescribed.

Form and inspection of register.

46. The Register of Copyrights and indexes thereof kept under this Act shall at all reasonable times be open to inspection, and any person shall be entitled to take copies of, or make extracts from, such register or indexes on payment of such fee and subject to such conditions as may be prescribed.

Register of Copyrights to be *prima facie* evidence of particulars entered therein.

47. The Register of Copyrights shall be *prima facie* evidence of the particulars entered therein and documents purporting to be copies of any entries therein or extracts therefrom certified by the Registrar of Copyrights and sealed with the seal of the Copyright Office shall be admissible in evidence in all courts without further proof or production of the original.

Correction of entries in the Register of Copyrights.

48. The Registrar of Copyrights may, in the prescribed cases and subject to the prescribed conditions, amend or alter the Register of Copyrights by—

(a) correcting any error in any name, address or particulars; or

(b) correcting any other error which may have arisen therein by accidental slip or omission.

Rectification of register by courts.

49. (1) The High Court, on application of the Registrar of Copyrights or of any person aggrieved, shall order the rectification of the Register of Copyrights by—

(a) the making of any entry wrongly omitted to be made in the register, or

(b) the expunging of any entry wrongly made in or remaining on the register, or

(c) the correction of any error or defect in the register.

(2) In this section, "High Court" means the High Court within whose jurisdiction the Copyright Office is situate or,***within whose

jurisdiction the person aggrieved actually and voluntarily resides or carries on business or personally works for gain.

CHAPTER XI

INFRINGEMENT OF COPYRIGHT

5 50. Copyright in a work shall be deemed to be infringed—

When copy-
right infrin-
ged.

(a) when any person, * * * * without a licence granted by the owner of the copyright or the Registrar of Copyrights under this Act or in contravention of the conditions of a licence so granted or of any condition imposed by a competent authority under this Act—

10 (i) does anything, the exclusive right to do which is by this Act conferred upon the owner of the copyright; or
(ii) permits for profit any place to be used for the performance of the work in public where such performance constitutes an infringement of the copyright in the work,
15 or

(b) when any person—

(i) makes for sale or hire, or sells or lets for hire, or by way of trade displays or offers for sale or hire, or
20 (ii) distributes either for the purpose of trade or to such an extent as to affect prejudicially the owner of the copyright, or

(iii) by way of trade exhibits in public, or

(iv) imports (except for the private or domestic use of the importer) into India,

25 any infringing copies of the work. * * *

30 *Explanation.*—For the purposes of this section, the reproduction of a literary, dramatic, musical or artistic work in the form of a cinematograph film shall be deemed to be an “infringing copy”.

51. (1) The following acts shall not constitute an infringement of copyright, namely:—

Certain acts
not to be
infringement
of copyright.

(a) a fair dealing with a literary, dramatic, musical or artistic work for the purposes of—

35 (i) research or private study;

(ii) criticism or review, whether of that work or of any other work;

(b) a fair dealing with a literary, dramatic or musical work for the purpose of reporting current events—

(i) in a newspaper, magazine or similar periodical; or

(ii) by radio-diffusion or in a cinematograph film or by means of photographs; 5

(c) the reproduction of a literary, dramatic, musical or artistic work for the purpose of a judicial proceeding or for the purpose of a report of a judicial proceeding;

(d) the reproduction or publication of a literary, dramatic, musical or artistic work in any work prepared by the Secretariat 10 of a Legislature or, where the Legislature consists of two Houses, by the Secretariat of either House of the Legislature, exclusively for the use of the members of that Legislature;

(e) the reproduction of any literary, dramatic or musical work in a certified copy made or supplied in accordance with 15 any law for the time being in force;

(f) the reading or recitation in public of any reasonable extract from a published literary or dramatic work;

(g) the publication in a collection, mainly composed of non-copyright matter, *bona fide* intended for the use of educational 20 institutions, and so described in the title and in any advertisement issued by or on behalf of the publisher, of short passages from published literary or dramatic works, not themselves published for the use of educational institutions, in which copy-right subsists: 25

Provided that not more than two such passages from works by the same author are published by the same publisher during any period of five years.

Explanation.—In the case of a work of joint authorship, references in this clause to passages from works shall include 30 references to passages from works by any one or more of the authors of those passages or by any one or more of those authors in collaboration with any other person;

(h) the reproduction of a literary, dramatic, musical or artistic work— 35

(i) by a teacher or a pupil in the course of instruction; 35

or

(ii) as part of the questions to be answered in an examination; or

(iii) in answers to such questions; 40

(i) the performance, in the course of the activities of an educational institution, of a literary, dramatic or musical work by the staff and students of the institution, or of a cinematograph film or a record, if the audience is limited to such staff and students, the parents and guardians of the students and persons directly connected with the activities of the institution;

(j) the making of records in respect of any literary, dramatic or musical work if—

(i) records recording that work have previously been made by, or with the licence or consent of, the owner of the copyright in the work; and

(ii) the person making the records has given the prescribed notice of his intention to make the records, and has paid in the prescribed manner to the owner of the copyright in the work royalties in respect of all such records to be made by him, at the rate fixed by the Copyright Board in this behalf:

Provided that in making the records such person shall not make any alterations in, or omissions from, the work, unless records recording the work subject to similar alterations and omissions have been previously made by, or with the licence or consent of, the owner of the copyright or unless such alterations and omissions are reasonably necessary for the adaptation of the work to the records in question;

(k) the performance of a literary, dramatic or musical work by an amateur club or society, if the performance is given to a non-paying audience, or for the benefit of a religious or charitable institution;

(l) the reproduction in a newspaper, magazine or other periodical of an article on current economic, political, social or religious topics, unless the author of such article has expressly reserved to himself the right of such reproduction;

(m) the publication in a newspaper, magazine or other periodical of a report of a lecture delivered in public;

(n) the making of not more than three copies of a book (including a pamphlet, sheet of music, map, chart or plan) by or under the direction of the person in charge of a public library for the use of the library if such book is not available for sale in India;

(o) the reproduction, for the purpose of research or private study or with a view to publication, of an unpublished literary,

dramatic or musical work kept in a library, museum or other institution to which the public has access:

Provided that where the identity of the author of any such work or, in the case of a work of joint authorship, of any of the authors is known to the library, museum or other institution, 5 as the case may be, the provisions of this clause shall apply only if such reproduction is made at a time more than fifty years from the date of the death of the author or, in the case of a work of joint authorship, from the death of the author whose identity is known or, if the identity of more authors than one 10 is known, from the death of such of those authors who dies last;

(p) the production, reproduction, performance or publication of a translation in any Indian language of an Indian work after the expiry of a period of ten years from the date of the 15 first publication of the work:

Provided that no translation of such work in that language has been produced, reproduced, performed or published, as the case may be, within the said period by the author or any person authorised by him in this behalf; 20

Explanation.—In this clause,—

(i) the expression “Indian work” means a literary, dramatic or musical work published in India, and includes a work published outside India if the author of the work is a citizen of India or is domiciled in India, but does 25 not include an Act of a Legislature or any rules or orders made thereunder; and

(ii) the expression “author” includes the legal representatives of the author;

(q) the reproduction or publication of— 30

(i) any matter which has been published in any Official Gazette except an Act of a Legislature;

(ii) any Act of a Legislature subject to the condition that such Act is reproduced or published together with any commentary thereon or any other original matter; 35

(iii) the report of any committee, commission, council, board or other like body appointed by the Government if such report has been laid on the Table of the Legislature, unless the reproduction or publication of such report is prohibited by the Government; 40

(iv) any judgment or order of a court, tribunal or other judicial authority, unless the reproduction or publication of such judgment or order is prohibited by the court, the tribunal or other judicial authority, as the case may be;

5 (r) the production or publication of a translation in any Indian language of an Act of a Legislature and of any rules or orders made thereunder—

10 (i) if no translation of such Act or rules or orders in that language has previously been produced or published by the Government; or

(ii) where a translation of such Act or rules or orders in that language has been produced or published by the Government, if the translation is not available for sale to the public;

15 Provided that such translation contains a statement at a prominent place to the effect that the translation has not been authorised or accepted as authentic by the Government;

20 (s) the making or publishing of a painting, drawing, engraving or photograph of an architectural work of art;

25 (t) the making or publishing of a painting, drawing, engraving or photograph of a sculpture, or other artistic work falling under sub-clause (iii) of clause (c) of section 2, if such work is permanently situate in a public place or any premises to which the public has access;

(u) the inclusion in a cinematograph film of—

(i) an architectural work of art or a sculpture or any artistic work falling under sub-clause (iii) of clause (c) of section 2; or

30 (ii) any other artistic work, if such inclusion is only by way of background or is otherwise incidental to the principal matters represented in the film;

35 (v) the use by the author of an artistic work, where the author of such work is not the owner of the copyright therein, of any mould, cast, sketch, plan, model or study made by him for the purpose of the work:

Provided that he does not thereby repeat or imitate the main design of the work;

40 (w) the making of an object of any description in three dimensions of an artistic work in two dimensions, if the object would not appear, to persons who are not experts in relation to objects of that description, to be a reproduction of the artistic work;

(x) the reconstruction of a building or structure in accordance with the architectural drawings or plans by reference to which the building or structure was originally constructed:

Provided that the original construction was made with the consent or licence of the owner of the copyright in such drawings and plans; 5

(y) in relation to a literary, dramatic, or musical work recorded or reproduced in any cinematograph film, the exhibition of such film after the expiration of the term of copyright therein: 10

Provided that the provisions of sub-clause (ii) of clause (a), sub-clause (i) of clause (b) and clauses (f), (g), (l) and (o) shall not apply as respects any act unless that act is accompanied by an acknowledgement—

(i) identifying the work by its title or other description; 15
and

(ii) unless the work is anonymous or the author of the work has previously agreed or required that no acknowledgement of his name should be made, also identifying the author.

(2) The provisions of sub-section (1) shall apply to the doing of any act in relation to the translation of a literary, dramatic or musical work or the adaptation of a literary, dramatic, musical or artistic work as they apply in relation to the work itself. 20

* * * *

Importation
of infringing
copies.

52. (1) The Registrar of Copyrights, on application by the owner of the copyright in any work or by his duly authorised agent and on payment of the prescribed fee, may, after making such inquiry as he deems fit, order that copies made out of India of the work which if made in India would infringe copyright shall not be imported. 30

(2) Subject to any rules made under this Act, the Registrar of Copyrights or any person authorised by him in this behalf may enter any ship, dock or premises where any such copies as are referred to in sub-section (1) may be found and may examine such copies. 35

(3) All copies to which any order made under sub-section (1) applies shall be deemed to be goods of which the import has been prohibited or restricted under section 19 of the Sea Customs

8 of 1878.

Act, 1878, and all the provisions of that Act shall have effect accordingly:

Provided that all such copies confiscated under the provisions of the said Act shall not vest in the Government but shall be delivered to the owner of the copyright in the work.

CHAPTER XII

CIVIL REMEDIES

53. For the purposes of this Chapter, unless the context otherwise requires, the expression "owner of copyright" shall include—

Definition.

(a) an exclusive licensee;

(b) in the case of an anonymous or pseudonymous literary, dramatic, musical or artistic work, the publisher of the work, until the identity of the author or, in the case of an anonymous work of joint authorship, or a work of joint authorship published under names all of which are pseudonyms, the identity of any of the authors, is disclosed publicly by the author and the publisher or is otherwise established to the satisfaction of the Copyright Board by that author or his legal representatives.

54. (1) Where copyright in any work has been infringed, the owner of the copyright shall, except as otherwise provided by this Act, be entitled to all such remedies by way of injunction, damages, accounts and otherwise as are or may be conferred by law for the infringement of a right:

Civil remedies for infringement of copyright.

Provided that if the defendant proves that at the date of the infringement he was not aware and had no reasonable ground for believing that copyright subsisted in the work, the plaintiff shall not be entitled to any remedy other than an injunction in respect of the infringement and a decree for the whole or part of the profits made by the defendant by the sale of the infringing copies as the court may in the circumstances deem reasonable.

(2) Where, in the case of a literary, dramatic, musical or artistic work, a name purporting to be that of the author or the publisher, as the case may be, appears on copies of the work as published, or,

in the case of an artistic work, appeared on the work when it was made, the person whose name so appears or appeared shall, in any proceedings, in respect of infringement of copyright in such work, be presumed, unless the contrary is proved, to be the author or the publisher of the work, as the case may be.

5

(3) The costs of all parties in any proceedings in respect of the infringement of copyright shall be in the discretion of the court.

Protection
of separate
rights.

55. Subject to the provisions of this Act, where the several rights comprising the copyright in any work are owned by different persons, the owner of any such right shall, to the extent of that right, be entitled to the remedies provided by this Act and may individually enforce such right by means of any suit, action or other proceeding without making the owner of any other right a party to such suit, action or proceeding.

Author's
special
rights.

56. (1) Independently of the author's copyright, and even after the assignment either wholly or partially of the said copyright, the author of a work shall have the right to claim the authorship of the work as well as the right to restrain, or claim damages in respect of,—

(a) any distortion, mutilation or other modification of the said work; or

(b) any other action in relation to the said work which would be prejudicial to his honour or reputation.

* * * * *

(2) The right conferred upon an author of a work by sub-section (1), other than the right to claim authorship of the work, may be exercised by the legal representatives of the author.

Rights of
owner
against per-
sons posses-
sing or deal-
ing with
infringing
copies.

57. All infringing copies of any work in which copyright subsists, and all plates used or intended to be used for the production of such infringing copies, shall be deemed to be the property of the owner of the copyright, who accordingly may take proceedings for the recovery of possession thereof or in respect of the conversion thereof:

Provided that the owner of the copyright shall not be entitled to any remedy in respect of the conversion of any infringing copies, if the opponent proves—

(a) that he was not aware and had no reasonable ground to believe that copyright subsisted in the work of which such copies are alleged to be infringing copies; or

(b) that he had reasonable grounds for believing that such copies or plates do not involve infringement of the copyright in any work.

1 of 1877. 5 58. Notwithstanding anything contained in the Specific Relief Act, 1877, where the construction of a building or other structure which infringes or which, if completed, would infringe the copy- right in some other work has been commenced, the owner of the copyright shall not be entitled to obtain an injunction to restrain the construction of such building or structure or order its demolition.

Restriction on remedies in the case of works of architecture.

(2) Nothing in * section 57 shall apply in respect of the construction of a building or other structure which infringes or which, if completed, would infringe the copyright in some other work.

15 59. Where any person claiming to be the owner of copyright in any work, by circulars, advertisements or otherwise, threatens any other person with any legal proceedings or liability in respect of an alleged infringement of the copyright, any person aggrieved thereby may, notwithstanding anything contained in section 42 of the Specific Relief Act, 1877, institute a declaratory suit that the alleged infringement to which the threats related was not in fact an infringement of any legal rights of the person making such threats and may in any such suit—

Remedy in the case of groundless threat of legal proceedings

1 of 1877.

20 (a) obtain an injunction against the continuance of such threats; and

25 (b) recover such damages, if any, as he has sustained by reason of such threats:

Provided that this section shall not apply if the person making such threats, with due diligence, commences and prosecutes an action for infringement of the copyright claimed by him.

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60. (1) In every civil suit or other proceeding regarding infringement of copyright instituted by an exclusive licensee, the owner of the copyright shall, unless the court otherwise directs, be made a defendant and where such owner is made a defendant, he shall have the right to dispute the claim of the exclusive licensee.

Owner of copyright to be party to the proceeding.

(2) Where any civil suit or other proceeding regarding infringement of copyright instituted by an exclusive licensee is successful, no fresh suit or other proceeding in respect of the same cause of action shall lie at the instance of the owner of the copyright.

Jurisdiction
of court over
matters
arising under
this Chapter.

61. (1) Every suit or other civil proceeding arising under this Chapter in respect of the infringement of copyright in any work or the infringement of any other right conferred by this Act shall be instituted in the district court having jurisdiction. 5

(2) For the purpose of sub-section (1), a "district court having jurisdiction" shall, notwithstanding anything contained in the Code of Civil Procedure, 1908, or any other law for the time being in force, include a district court within the local limits of whose jurisdiction, at the time of the institution of the suit or other proceeding, the person instituting the suit or other proceeding or, where there are more than one such persons, any of them actually and voluntarily resides or carries on business or personally works for gain. 10 15 5 of 1908.

CHAPTER XIII

OFFENCES

Offence of
infringement
of copyright
or other
rights con-
ferred by
this Act.

62. Any person who knowingly infringes or abets the infringement of— 20

(a) the copyright in a work, or

(b) any other right conferred by this Act,

shall be punishable with imprisonment which may extend to one year, or with fine, or with both. 25

Explanation.—Construction of a building or other structure which infringes or which, if completed, would infringe the copyright in some other work shall not be an offence under this section.

Power of
police to
seize
infringing
copies.

63. (1) Where a magistrate has taken cognizance of any offence under section 62 in respect of the infringement of copyright in any work, it shall be lawful for any police officer not below the rank of sub-inspector, to seize without any warrant from the magistrate, all copies of the work wherever found, which appear to him to be infringing copies of the work and all copies so seized shall, as soon as practicable, be produced before the magistrate. 30 35

(2) Any person having an interest in any copies of a work seized under sub-section (1) may, within fifteen days of such

seizure, make an application to the magistrate for such copies being restored to him and the magistrate, after hearing the applicant and the complainant and making such further inquiry as may be necessary, shall make such order on the application as he may deem fit.

64. Any person who knowingly makes, or has in his possession, any plate for the purpose of making infringing copies of any work in which copyright subsists shall be punishable with imprisonment which may extend to one year, or with fine, or with both.

Possession of plates for purpose of making infringing copies.

65. The court trying any offence under this Act may, whether the alleged offender is convicted or not, order that all copies of the work or all plates in the possession of the alleged offender, which appear to it to be infringing copies, or plates for the purpose of making infringing copies, be * * * * * delivered up to the owner of the copyright.

Disposal of infringing copies or plates for purpose of making infringing copies.

* * * * *

66. Any person who—

(a) makes or causes to be made a false entry in the Register of Copyrights kept under this Act, or

(b) makes or causes to be made a writing falsely purporting to be a copy of any entry in such register, or

(c) produces or tenders or causes to be produced or tendered as evidence any such entry or writing, knowing the same to be false,

Penalty for making false entries in register, etc., for producing or tendering false entries.

shall be punishable with imprisonment which may extend to one year, or with fine, or with both.

67. Any person who—

(a) with a view to deceiving any authority or officer in the execution of the provisions of this Act, or

(b) with a view to procuring or influencing the doing or omission of anything in relation to this Act or any matter thereunder,

Penalty for making false statements for the purpose of deceiving or influencing Registrar or other officer.

makes a false statement or representation knowing the same to be false, shall be punishable with imprisonment which may extend to one year, or with fine, or with both.

68. (1) Where any offence under this Act has been committed by a company, every person who at the time the offence was committed was in charge of, and was responsible to the company for, the

Offences by companies.

conduct of the business of the company, as well as the company, shall be deemed to be guilty of such offence and shall be liable to be proceeded against and punished accordingly:

Provided that nothing contained in this sub-section shall render any person liable to any punishment, if he proves that the offence was committed without his knowledge or that he exercised all due diligence to prevent the commission of such offence. 5

(2) Notwithstanding anything contained in sub-section (1), where an offence under this Act has been committed by a company, and it is proved that the offence was committed with the consent or connivance of, or is attributable to any negligence on the part of, any director, manager, secretary or other officer of the company, such director, manager, secretary or other officer shall also be deemed to be guilty of that offence and shall be liable to be proceeded against and punished accordingly. 15

Explanation.—For the purposes of this section—

(a) “company” means any body corporate and includes a firm or other association of persons; and

(b) “director” in relation to a firm means a partner in the firm. 20

Cognizance
of offences.

69. No court inferior to that of a Presidency Magistrate or a Magistrate of the First Class shall try any offence under this Act.

CHAPTER XIV

APPEALS

Appeals against
certain
orders of
magistrate.

70. Any person aggrieved by an order made under sub-section (2) of section 63 or section 65 may, within thirty days of the date of such order, appeal to the court to which appeals from the court making the order ordinarily lie, and such appellate court may direct that execution of the order be stayed pending disposal of the appeal. 25

Appeals
against
orders of
Registrar of
Copyrights
and Copy-
right Board.

71. (1) Any person aggrieved by any final decision or order of the Registrar of Copyrights may, within three months from the date of the order or decision, appeal to the Copyright Board. 30

* * * *

(2) Any person aggrieved by any final decision or order of the Copyright Board, not being a decision or order made in an appeal under sub-section (1), may, within three months from the date of such decision or order, appeal to the High Court within whose jurisdiction the appellant actually and voluntarily resides or carries on business or personally works for gain: 35

Provided that no such appeal shall lie against a decision of the Copyright Board under section 6.

(3) In calculating the period of three months provided for an appeal under this section, the time taken in granting a certified copy of the order or record of the decision appealed against shall be excluded.

72. The High Court may make rules consistent with this Act as Procedure for hearing appeals. to the procedure to be followed in respect of appeals made to it under section 71.

10

CHAPTER XV

MISCELLANEOUS

73. The Registrar of Copyrights and the Copyright Board shall have the powers of a civil court when trying a suit under the Code of Civil Procedure, 1908, in respect of the following matters, namely:—

Registrar of Copyrights and Copyright Board to possess certain powers of civil courts,

15

(a) summoning and enforcing the attendance of any person and examining him on oath;

(b) requiring the discovery and production of any document;

(c) receiving evidence on affidavits;

20

(d) issuing commissions for the examination of witnesses or documents;

(e) requisitioning any public record or copy thereof from any court or office;

(f) any other matter which may be prescribed.

25

Explanation.—For the purpose of enforcing the attendance of witnesses, the local limits of the jurisdiction of the Registrar of Copyrights or the Copyright Board, as the case may be, shall be the limits of the territory of India.

30

74. Every order made by the Registrar of Copyrights or the Copyright Board under this Act for the payment of any money or by the High Court in any appeal against any such order of the Copyright Board shall, on a certificate issued by the Registrar of Copyrights, the Copyright Board or the Registrar of the High Court, as the case may be, be deemed to be a decree of a civil court and shall be executable in the same manner as a decree of such court.

Orders for payment of money passed by Registrar of Copyrights and Copyright Board to be executable as a decree.

Protection of
action taken
in good faith,

75. No suit or other legal proceeding shall lie against any person in respect of anything which is in good faith done or intended to be done in pursuance of this Act.

Certain persons
to be
public servants.

76. Every officer appointed under this Act and every member of the Copyright Board shall be deemed to be a public servant 5 45 of 1850.
within the meaning of section 21 of the Indian Penal Code.

* * * * *

Power to
make rules.

77. (1) The Central Government may, by notification in the Official Gazette, make rules for carrying out the purposes of this Act. 10

(2) In particular, and without prejudice to the generality of the foregoing power, the Central Government may make rules to provide for all or any of the following matters, namely:—

(a) the term of office and conditions of service of the Chairman and other members of the Copyright Board; 15

(b) the form of complaints and applications to be made, and the licences to be granted, under this Act;

(c) the procedure to be followed in connection with any proceeding before the Registrar of Copyrights;

(d) the manner of determining any royalties payable under 20 this Act, and the security to be taken for the payment of such royalties;

(e) the form of Register of Copyrights to be kept under this Act and the particulars to be entered therein;

(f) the matters in respect of which the Registrar of Copy- 25 rights and the Copyright Board shall have powers of a civil court;

(g) the fees which may be payable under this Act;

(h) the regulation of business of the Copyright Office and of all things by this Act placed under the direction or control of 30 the Registrar of Copyrights.

(3) All rules made under this section shall, as soon as may be after they are made, be laid before both Houses of Parliament for not less than thirty days and shall be subject to such modifications as Parliament may make during the session in which they are so 35 laid or the session immediately following.

3 of 1914.

78. (1) The Indian Copyright Act, 1914 and the Copyright Act of 1911 passed by the Parliament of the United Kingdom as modified in its application to India by the Indian Copyright Act, 1914, are hereby repealed.

Repeals,
savings,
and transi-
tional provi-
sions.

3 of 1914.

5 (2) Where any person has, before the commencement of this Act, taken any action whereby he has incurred any expenditure or liabilities in connection with the reproduction or performance of any work in a manner which at the time was lawful or for the purpose of or with a view to the reproduction or performance of a
10 work at a time when such reproduction or performance would, but for the coming into force of this Act, have been lawful, nothing in this section shall diminish or prejudice any rights or interests arising from or in connection with such action which are subsisting and valuable at the said date, unless the person who, by virtue of
15 this Act, becomes entitled to restrain such reproduction or performance agrees to pay such compensation as, failing agreement, may be determined by the Copyright Board.

(3) Copyright shall not subsist by virtue of this Act in any work in which copyright did not subsist immediately before the com-
20 mencement of this Act under any Act repealed by sub-section (1).

(4) Where copyright subsisted in any work immediately before the commencement of this Act, the rights comprising such copyright shall, as from the date of such commencement, be the rights specified in section 14 in relation to the class of works to which such work
25 belongs, and where any new rights are conferred by that section, the owner of such rights shall be—

(a) in any case where copyright in the work was wholly assigned before the commencement of this Act, the assignee or his successor-in-interest;

30 (b) in any other case, the person who was the first owner of the copyright in the work, under any Act repealed by sub-section (1) or his legal representatives.

(5) Except as otherwise provided in this Act, where any person is entitled immediately before the commencement of this Act to copy-
35 right in any work or any right in such copyright or to an interest in any such right, he shall continue to be entitled to such right or interest for the period for which he would have been entitled thereto if this Act had not come into force.

(6) Nothing contained in this Act shall be deemed to render any act done before its commencement an infringement of copyright if that act would not otherwise have constituted such an infringement.

(7) Save as otherwise provided in this section, nothing in this section shall be deemed to affect the application of the **General Clauses Act, 1897**, with respect to the effect of repeals.

10 of 1897.

APPENDIX I

(Vide para. 2 of the Report)

Motion in the Rajya Sabha for reference of the Bill to a Joint Committee

“That the Bill to amend and consolidate the law relating to copy-right be referred to a Joint Committee of the Houses consisting of 45 Members; 15 Members from this House, namely:--

1. Shri Mohamed Valiulla,
 2. Prof. R. D. Sinha Dinkar,
 3. Prof. G. Ranga,
 4. Shri Nawab Singh Chauhan,
 5. Prof. Dr. Raghu Vira,
 6. Shri Benarsi Das Chaturvedi,
 7. Shrimati Lilavati Munshi,
 8. Shri Raghavendraro,
 9. Dr. Raghubir Singh,
 10. Shri Shyam Dhar Misra,
 11. Kakasaheb Kalelkar,
 12. Shri Abdur Rezzak Khan,
 13. Shri N. B. Deshmukh,
 14. Shri Rajendra Pratap Sinha,
 15. Dr. K. L. Shrimali, the mover,
- and 30 Members from the Lok Sabha;

that in order to constitute a meeting of the Joint Committee the quorum shall be one-third of the total number of Members of the Joint Committee;

that in other respects, the Rules of Procedure of this House relating to Select Committees shall apply with such variations and modifications as the Chairman may make;

that this House recommends to the Lok Sabha that the Lok Sabha do join in the said Joint Committee and communicate to this House the names of Members to be appointed by the Lok Sabha to the Joint Committee; and

that the Committee shall make a report to this House by the 25th May, 1956.”

APPENDIX II

(*Vide* para. 3 of the Report)

Motion in the Lok Sabha

"That this House concurs in the recommendation of Rajya Sabha that the House do join in the Joint Committee of the Houses on the Bill to amend and consolidate the law relating to copyright made in the motion adopted by Rajya Sabha at its sitting held on the 16th February, 1956 and communicated to this House on the 21st February, 1956 and resolves that the following members of Lok Sabha be nominated to serve on the said Joint Committee, namely:—

1. Shri B. S. Murthy
2. Shri N. C. Laskar
3. Shri Nageshwar Prasad Sinha
4. Shri Fulsinhji B. Dabhi
5. Shri Joachim Alva
6. Shri T. S. Avinashilingam Chettiar
7. Shri S. V. Ramaswamy
8. Shri Birakisor Ray
9. Shri D. C. Sharma
10. Shri S. C. Samanta
11. Shri Gurmukh Singh Musafir
12. Shri M. Hifzur Rahman
13. Dr. Suresh Chandra
14. Shri C. P. Mathew
15. Shrimati Tarkeshwari Sinha
16. Seth Govind Das
17. Shri Rohanlal Chaturvedi
18. Shri C. R. Basappa
19. Dr. Lanka Sundaram
20. Shri U. M. Trivedi
21. Shri V. G. Deshpande
22. Shri N. B. Chowdhury
23. Shri Sadhan Chandra Gupta
24. Shri Bahadur Singh
25. Shri Frank Anthony

26. Shri Ramji Verma
27. Shri M. S. Gurupadaswamy
28. Shri V. Veeraswamy
29. Dr. Mono Mohan Das and
30. Maulana Abul Kalam Azad.

This House also recommends to the Rajya Sabha that the said Joint Committee be instructed to report on or before the 16th August, 1956."

APPENDIX III*(Vide para. 9 of the Report)***List of Organisations who tendered evidence before the Joint Committee**

Name of Organisation	Date
I. (i) The International Confederation of Authors' and Composers', Paris; (ii) The Performing Right Society, London; and (iii) The British Joint Copyright Council, London.	17th October, 1956.
II. (i) The All-India Centre of P.E.N., Bombay; (ii) The Indian Committee for Cultural Freedom, Bombay; and (iii) The Indian Institute for Educational and Cultural Co-operation, Bombay.	
III. The All-India Hindi Publishers' Association, Allahabad.	
IV. (i) The Indian Phonographic Industry, Calcutta; (ii) The Gramophone Co. Ltd., Calcutta; and (iii) The Columbia Gramophone Co. Ltd., Calcutta.	20th October, 1956.
V. All-India Radio	
VI. Delhi Branch of Satsangis of Radhasoami Faith.	

APPENDIX IV

(*Vide* para. 11 of the Report)

Report of the Sub-Committee of the Joint Committee on the Copyright Bill, 1955

I, the Chairman of the Sub-Committee of the Joint Committee on the Copyright Bill, 1955, having been authorised by the Sub-Committee to submit the Report on their behalf, present this their Report.

2. The Sub-Committee was appointed by the Joint Committee at their Seventh meeting held on the 22nd October, 1956, to consider the nature and extent of protection to be given to works made or published by or under the direction or control of the Government, the Legislatures and the courts or other judicial authorities in India.

3. The Sub-Committee held two sittings in all.

4. The Sub-Committee has examined the matter at length. The Sub-Committee feels that some Government works which are of obvious public interest should remain in the public domain unless the competent authority otherwise directs. The draft paragraph for inclusion in clause 54 of the Bill is embodied in the minutes of the meeting of the Sub-Committee (Annexure I). The Sub-Committee has, however, desired me to ascertain the views of (i) the Secretary, Rajya Sabha and (ii) the Secretary, Lok Sabha in regard to the proposed provisions.

5. The Sub-Committee recommends that the amendment suggested by it be accepted by the Joint Committee.

M. M. DAS,

Chairman,

Sub-Committee of the Joint Committee.

NEW DELHI;

The 27th October, 1956.

ANNEXURE I

(Vide para. 4 of Appendix IV)

Minutes of the Meetings of the Sub. Committee of the Joint Committee on the Copyright Bill, 1955.

I

FIRST MEETING

The Sub-Committee met from 4 P.M. to 5 P.M. on Tuesday the 23rd October, 1956.

PRESENT

Dr. M. M. Das—*Chairman.*

Members

1. Shri Rajendra Pratap Sinha
2. Shri T. S. Avinashilingam Chettiar
3. Shri Sadhan Chandra Gupta

Representatives of Ministries and other officers

MINISTRY OF LAW

1. Shri S. K. Hiranandani, Additional Draftsman.
2. Shri B. N. Lokur, Joint Secretary.

MINISTRY OF EDUCATION

3. Shri R. K. Kapur, Deputy Educational Adviser.

Term of reference.—To consider the nature and extent of protection to be given to the works made or published by or under the direction or control of the Government, the Legislatures and the courts or other judicial authorities in India.

The Committee discussed the matter at length. The discussion had not concluded when it adjourned to meet again on a date to be notified.

NEW DELHI;

The 23rd October, 1956.

II

SECOND MEETING

The Sub-Committee met from 4 P.M. to 5 P.M. on Friday the 26th October, 1956.

PRESENT

Dr. M. M. Das—*Chairman*.

Members

1. Shri Rajendra Pratap Sinha
2. Shri T. S. Avinashilingam Chettiar
3. Shri Sadhan Chandra Gupta

Representatives of Ministries and other officers

Shri B. N. Lokur, Joint Secretary, Ministry of Law.

Term of reference.—To consider the nature and extent of protection to be given to the works made or published by or under the direction or control of the Government, the Legislatures and the courts or other judicial authorities in India.

The Sub-Committee resumed discussion of the matter not concluded on the 23rd October, 1956 and decided that the definition of 'Government work' should be as proposed by the amendment of Dr. M. M. Das but felt that some Government works which are of obvious public interest should be placed in the public domain. Accordingly the Sub-Committee recommends inclusion of the following sub-clause in clause 54:—

“(mm) the reproduction or publication of—

- (i) any matter which has been published in any Official Gazette except any Act of a Legislature;
- (ii) any Act of a Legislature subject to the condition that such Act is reproduced or published together with any commentary thereon or any other original matter;
- (iii) the report of any committee, commission, council, board or other like body appointed by the Government or by a Legislature, after such report is laid

on the Table of the Legislature unless the reproduction or publication of such report is prohibited by the Government or the Speaker of the Legislature or, where the Legislature consists of two Houses, the Speaker or the Chairman, as the case may be;

- (iv) the report of any proceeding of a Legislature;
- (v) any judgment or order of a court, tribunal or other judicial authority unless the reproduction or publication of such judgment or order is prohibited by the court, the tribunal or other judicial authority as the case may be.

The Chairman of the Sub-Committee was however, requested to ascertain of the view of the Secretaries of both the Houses of Parliament in regard to the proposed provisions.

NEW DELHI;

The 26th October, 1956.

APPENDIX V

(*Vide* para. 11 of the Report)

Report of the Sub-Committee of the Joint Committee on the Copyright Bill, 1955

We, the undersigned members of the Sub-Committee of the Joint Committee on the Copyright Bill, 1955 have the honour to submit this our Report.

2. The Sub-Committee was appointed by the Joint Committee at the Ninth meeting on the 24th October, 1956, to consider the question of the Copyright Board and its Benches holding their sittings in the various zones to hear cases arising in those zones.

3. The Sub-Committee has examined the matter. The draft proviso for insertion in clause 11(1) is embodied in the minutes of the meeting of the Sub-Committee (Annexure A).

4. The Sub-Committee recommends that the amendment suggested by it be accepted by the Joint Committee.

RAJENDRA PRATAP SINHA

T. S. AVINASHILINGAM CHETTIAR

NEW DELHI;

The 26th October, 1956.

ANNEXURE A

(Vide para. 3 of Appendix V)

Minutes of the meeting of the Sub-Committee of the Joint Committee on the Copyright Bill, 1955, held on the 26th October, 1956.

PRESENT

1. Shri Rajendra Pratap Sinha
2. Shri T. S. Avinashlingam Chettiar

MINISTRY OF LAW

Shri B. N. Lokur, Joint Secretary.

Term of Reference:—To make suitable provision for hearing of the cases on zonal basis.

The Sub-Committee recommends to the Joint Committee that the following proviso be inserted after sub-clause (1) of clause 11:—

“Provided that the Copyright Board shall hear any proceeding instituted before it under this Act within the zone in which the person instituting the proceeding actually and voluntarily resides or carries on business or personally works for gain at the time of the institution of the proceeding.

Explanation.—In this sub-section ‘zone’ means a zone specified in Section 15 of the States Reorganisation Act, 1956.”

NEW DELHI;

The 26th October, 1956.

S. N. MUKERJEE,
Secretary.